

EXTRAORDINARY



THE REPUBLIC OF SOUTH AFRICA

Government Gazette

Staatskoerant

VAN DIE REPUBLIEK VAN SUID-AFRIKA

[Registered at the General Post Office as a Newspaper.]

[Geregisteer by die Hoofposkantoor as 'n Nuusblad.]

Vol. VIII.]	PRICE 5c	CAPE TOWN, 30TH MAY, 1963. KAAPSTAD 30 MEI 1963.	PRYS 5c	[No. 516.]
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DEPARTMENT OF THE PRIME MINISTER.	DEPARTEMENT VAN DIE EERSTE MINISTER.
No. 813.] [30th May, 1963.	No. 813.] [30 Mei 1963.
It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—	Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—
PAGE	BLADSY
No. 48 of 1963: Transkei Constitution Act, 1963. 2	No. 48 van 1963: Transkeise Grondwet, 1963 3

No. 48, 1963.]

ACT

To confer self-government in the Transkei on the Bantu resident in the Transkei and on certain Bantu related to the Bantu of the Transkei and to provide for matters incidental thereto.

*(English text signed by the State President.)
(Assented to 24th May, 1963.)*

This Act is divided into different parts which severally relate to the following subject matters:

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PREAMBLE.

WHEREAS the policy of separate development envisages the gradual development of self-governing Bantu National Units in the traditional Bantu homelands:

AND WHEREAS the Bantu peoples of the Transkei have over a period of many years participated in local government, and have thus gained experience in exercising limited authority and have now reached a stage where they can assume additional duties and greater responsibilities:

AND WHEREAS the Transkeian Territorial Authority has requested that more comprehensive powers of self-government be entrusted to the Bantu of the Transkei in accordance with proposals submitted by them to the Government of the Republic of South Africa:

AND WHEREAS it is desirable to grant further powers of self-government to the Bantu of the Transkei on the basis of the principles proposed by them and with the firm intention to establish a well-organized government for that territory that—

- will maintain law and order and ensure justice to all;
- will promote the material and spiritual well-being of the Transkei and its peoples;
- will protect and develop their own culture; and
- will preserve the ideals of religion, civilization and democracy:

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

PART I.

THE TRANSKEI.

Transkei to be self-governing territory within the Republic.

1. The Territory described in section *two* shall under the name of the Transkei be a self-governing territory within the Republic of South Africa in accordance with the provisions of this Act.

Description of the Transkei

2. The Transkei shall, subject to the provisions of section *three*, consist of all the Bantu areas described below, namely—

(a) the Dalindyebo Regional Authority area comprising the Bantu areas in the districts of Engcobo, Mqanduli and Umtata;

No. 48, 1963.]

WET

Om selfregering in die Transkei te verleen aan die Bantoe woonagtig in die Transkei en aan sekere Bantoes verwant aan die Bantoe van die Transkei en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 24 Mei 1963.)

Hierdie Wet is onderverdeel in verskillende dele wat onderskeidelik betrekking het op die volgende aangeleenthede:

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AANHEF.

NADEMAAL die beleid van afsonderlike ontwikkeling die geleidelike ontwikkeling van selfregerende Bantoevolke-eenhede in die tradisionele Bantoe tuislande in die vooruitsig stel;

EN **NADEMAAL** die Bantoe van die Transkei oor 'n tydperk van baie jare aan plaaslike bestuur deelgeneem het en op dié wyse ondervinding in verband met die uitoefening van beperkte magte opgedoen het en nou 'n stadium bereik het waar hulle addisionele pligte en groter verantwoordelikhede kan aanvaar;

EN **NADEMAAL** die Transkeise Gebiedsowerheid versoek het dat meer omvattende magte van selfregering aan die Bantoe van die Transkei toevertrou word, in ooreenstemming met voorstelle wat hulle aan die Regering van die Republiek van Suid-Afrika voorgelê het;

EN **NADEMAAL** dit wenslik is om verdere selfbestuursmagte op grondslag van die beginsels deur hulle voorgestel aan die Bantoe van die Transkei te verleen met die vaste voorneme om 'n goed-georganiseerde regering vir daardie gebied tot stand te bring wat—

- die wet en orde sal handhaaf en geregtigheid aan almal sal verseker;
- die stoflike en geestelike welvaart van die Transkei en sy bevolking sal bevorder;
- hulle eie kultuur sal beskerm en opbou; en
- die ideale van godsdiens, beskawing en demokrasie sal beskerm;

WORD DAAR DERHALWE BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

DEEL I.

DIE TRANSKEI.

1. Die gebied in artikel twee beskryf, is onder die naam van die Transkei 'n selfregerende gebied binne die Republiek van Suid-Afrika ooreenkomstig die bepalinge van hierdie Wet. Transkei word selfregerende gebied binne die Republiek.

2. Die Transkei bestaan, behoudens die bepalinge van artikel drie, uit al die Bantoegebiede hieronder beskryf, te wete—
(a) die Dalindyebo-streksowerheidsgebied bestaande uit die Bantoegebiede in die distrikte Engcobo, Mqanduli en Umtata; Beskrywing van die Transkei.

- (b) the Emboland Regional Authority area comprising the Bantu areas in the districts of Mount Frere, Qumbu and Tsolo;
- (c) the Emigrant Tembuland Regional Authority area comprising the Bantu areas in the districts of St. Mark's and Xalanga;
- (d) the Fingo Regional Authority area comprising the Bantu areas in the districts of Butterworth, Ngqamakwe and Tsomo;
- (e) the Gcaleka Regional Authority area comprising the Bantu areas in the districts of Elliotdale, Idutywa, Kentani and Willowvale;
- (f) the Maluti Regional Authority area comprising the Bantu areas in the districts of Matatiele and Mount Fletcher;
- (g) the Nyanda Regional Authority area comprising the Bantu areas in the districts of Libode, Ngqeleni and Port St. John's;
- (h) the Qaukeni Regional Authority area comprising the Bantu areas in the districts of Bizana, Flagstaff, Lusikisiki, Mount Ayliff and Tabankulu; and
- (i) the Umzimkulu Regional Authority area comprising the Bantu areas in the district of Umzimkulu.

Modification of
area constituting
the Transkei.

3. The State President may, with the approval, by resolution, of the Senate and the House of Assembly and of the Legislative Assembly, by proclamation in the *Gazette* declare that any Bantu area shall be included in or be excised from the Transkei, and may, if authorized thereto in terms of the relevant resolution, provide that any area so excised shall cease to be a Bantu area or make such other provision in respect thereof as may be so authorized: Provided that where any Bantu area is excised from the Transkei other land of at least equal value shall be substituted therefor.

PART II.

FLAG, ANTHEM AND OFFICIAL LANGUAGES.

Transkeian Flag.

4. There shall be a Transkeian Flag, the design of which shall be approved by the Legislative Assembly and which shall be flown side by side with the National Flag of the Republic at the buildings where the Legislative Assembly holds its sessions, at the principal administrative office and all main district offices of the Government of the Transkei, and at such other places in the Transkei as the said Government may determine.

National Anthem.

5. The National Anthem of the Transkei shall be 'Nkosi Sikelel'i-Afrika!

Languages.

6. (1) Subject to the provisions of section *one hundred and eight* of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), Xhosa shall be recognized as an additional official language of the Transkei, and Sesotho may also be used for governmental, legislative, judicial and administrative purposes and such other official purposes as the Cabinet may determine by notice in the *Gazette*.

(2) The use of Xhosa or Sesotho anywhere within the Republic of South Africa outside the Transkei may be authorized by the State President by proclamation in the *Gazette* for purposes connected with the affairs of the Transkei and subject to such conditions as may be specified in the proclamation.

PART III.

CITIZENSHIP.

Transkeian
Citizens.

7. (1) There shall be a Transkeian citizenship and every person who is a citizen of the Transkei by virtue of the provisions of sub-section (2) shall, subject to the provisions of this Act, exercise franchise rights in the Transkei and enjoy all other rights, privileges and benefits and be subject to all the duties, obligations and responsibilities of citizenship in the Transkei as are accorded to or imposed upon him in terms of this Act.

(2) Every person falling in any of the undermentioned classes of persons shall be a citizen of the Transkei, that is to say—

- (a) every Bantu person born in any of the districts mentioned in section *two*, either before or after the commencement of this Act, who is not a prohibited immigrant under any law relating to immigration then in force at the place where he was born;

- (b) die Emboland-streeksowerheidsgebied bestaande uit die Bantoegebiede in die distrikte Mount Frere, Qumbu en Tsolo;
- (c) die Emigrant-Temboeland-streeksowerheidsgebied bestaande uit die Bantoegebiede in die distrikte St. Mark's en Xalanga;
- (d) die Fingo-streeksowerheidsgebied bestaande uit die Bantoegebiede in die distrikte Butterworth, Nqamakwe en Tsomo;
- (e) die Gcaleka-streeksowerheidsgebied bestaande uit die Bantoegebiede in die distrikte Elliotdale, Idutywa, Kentani en Willowvale;
- (f) die Maluti-streeksowerheidsgebied bestaande uit die Bantoegebiede in die distrikte Matatiele en Mount Fletcher;
- (g) die Nyanda-streeksowerheidsgebied bestaande uit die Bantoegebiede in die distrikte Libode, Ngqeleni en Port St. Johns;
- (h) die Qaukeni-streeksowerheidsgebied bestaande uit die Bantoegebiede in die distrikte Bizana, Flagstaff, Lusikisiki, Mount Ayliff en Tabankulu; en
- (i) die Umzimkulu-streeksowerheidsgebied bestaande uit die Bantoegebiede in die distrik Umzimkulu.

3. Die Staatspresident kan met goedkeuring, by besluit, van die Senaat en die Volksraad en van die Wetgewende Vergadering, by proklamasie in die *Staatskoerant* verklaar dat enige Bantoegebied by die Transkei ingesluit of daarvan uitgesluit word, en kan, indien ingevolge die betrokke besluit daartoe gemagtig, bepaal dat 'n gebied wat aldus uitgesluit word, ophou om 'n Bantoegebied te wees, of ten opsigte daarvan die ander voorsiening maak wat aldus gemagtig word: Met dien verstande dat waar 'n Bantoegebied van die Transkei uitgesluit word, ander grond van minstens gelyke waarde in die plek daarvan gegee moet word.

Wysiging van Transkei-gebied.

DEEL II.

VLAG, VOLKSLIED EN AMPTELIKE TALE.

4. Daar is 'n Transkeise vlag, waarvan die ontwerp deur die Wetgewende Vergadering goedgekeur word, en wat langs die Nasionale Vlag van die Republiek gehys word by die gebou waar die Wetgewende Vergadering sitting hou, by die administratiewe hoofkantoor en al die vernaamste distrikskantore van die Regering van die Transkei, en by die ander plekke in die Transkei wat bedoelde Regering bepaal.

Transkeise vlag.

5. Die Transkei se volkslied is 'Nkosi Sikelel'i-Afrika!

Volkslied.

6. (1) Behoudens die bepalings van artikel *honderd-en-agt* van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet No. 32 van 1961), word Xhosa as 'n addisionele amptelike taal van die Transkei erken en kan Sesotho ook vir regerings-, wetgewende, geregtelike en administratiewe doeleindes en die ander amptelike doeleindes wat die Kabinet by kennisgewing in die *Staatskoerant* bepaal, gebruik word.

Tale.

(2) Die gebruik van Xhosa of Sesotho op enige plek in die Republiek van Suid-Afrika buite die Transkei kan deur die Staatspresident by proklamasie in die *Staatskoerant* gemagtig word vir die doeleindes, wat met die sake van die Transkei in verband staan, en onderworpe aan die voorwaardes wat in die Proklamasie uiteengesit word.

DEEL III.

BURGERSKAP.

7. (1) Daar is 'n Transkeise burgerskap, en, behoudens die bepalings van hierdie Wet, oefen elke persoon wat ingevolge die bepalings van sub-artikel (2) 'n burger van die Transkei is, in die Transkei stemreg uit en geniet hy al die ander regte, voorregte en voordele en is hy onderhewig aan al die pligte, verpligtings en verantwoordelikhede van burgerskap in die Transkei wat hom ingevolge hierdie Wet verleen of opgelê word.

Transkeise burgerskap.

(2) Elke persoon wat onder enige van die hierondergemelde klasse val, is 'n burger van die Transkei, te wete—

- (a) elke Bantoe persoon wat in 'n in artikel twee vermelde distrik gebore is, hetsy voor of na die inwerkingtreding van hierdie Wet, en wat nie ingevolge 'n dan geldende wet op immigrasie op die plek van sy geboorte 'n verbode immigrant is nie;

- (b) every Bantu person who has been domiciled for at least five years in any of the said districts, if he is not a prohibited immigrant in the Republic or his entry into or residence in such district was not unlawful and he has not been lawfully admitted into that district for any temporary period or purpose only;
- (c) every Xhosa-speaking Bantu person in the Republic, including every Bantu person belonging to any associated linguistic group who normally uses any dialects of the languages spoken by what is commonly known as the Cape Nguni, provided such person does not belong to any Bantu homeland other than the Transkei or fall under the jurisdiction of any other regional or territorial authority or council or any other self-governing territory;
- (d) every Sotho-speaking Bantu person in the Republic who derives from or is generally regarded as a member of any of the Sotho-speaking tribes resident in any of the districts aforesaid.

(3) The Republic shall not regard a citizen of the Transkei as an alien in the Republic and shall by virtue of his citizenship of a territory forming part of the Republic of South Africa regard him for all external purposes in terms of international law as a citizen of the Republic and afford him full protection according to international law.

(4) No person who is a citizen of the Transkei shall by reason only of the provisions of this section be relieved of any duties, obligations or responsibilities or forfeit any existing rights, privileges or benefits which but for the said provisions would have been applicable in his case.

Loss of citizenship.

8. A citizen of the Transkei who becomes a citizen or national of another country or of any other self-governing Bantu territory shall cease to be a citizen of the Transkei.

PART IV.

THE EXECUTIVE.

Executive Government to vest in a Cabinet.

9. The executive government of the Transkei in regard to all matters in respect of which the Legislative Assembly is empowered to make laws by virtue of the provisions of this Act shall vest in a Cabinet constituted as hereinafter prescribed.

Constitution of Cabinet.

10. (1) The Cabinet shall consist of a Chief Minister and five other Ministers who shall be responsible for the administration of the departments appearing in Part A of the First Schedule to this Act.

(2) The State President may at any time by proclamation in the *Gazette*—

- (a) assign the administration of further departments to the Cabinet, and amend the First Schedule to this Act accordingly;
- (b) provide for the number of members of the Cabinet to be increased to not more than nine.

Conduct of proceedings of Cabinet.

11. (1) Questions arising in the Cabinet shall be determined by a majority of votes of the members present, and in case of an equality of votes the Chief Minister shall have a casting vote.

(2) The Cabinet may make rules for the conduct of its proceedings.

Chief Minister and Ministers to be elected by Legislative Assembly.

12. The Chief Minister and the other Ministers shall be elected by secret ballot by the members of the Legislative Assembly from among their number at the first session of each Assembly after a general election: Provided that the election of such other Ministers shall take place at a meeting of the Assembly held not earlier than one day after the date on which the Chief Minister is elected.

Method of election of Chief Minister.

13. (1) Nominations of candidates for election as Chief Minister shall be called for by the Chairman of the Legislative Assembly at the meeting of the Assembly at which the election is to take place.

(2) Every nomination shall be submitted in the form prescribed and shall be signed by two members of the Legislative Assembly and also by the person nominated, unless he has in writing signified his willingness to accept nomination.

(3) The names of the persons duly nominated shall be announced by the Chairman at the meeting at which the election is to take place, and no debate shall be allowed at the election.

- (b) elke Bantoe persoon wat vir minstens vyf jaar in enige van gemelde distrikte gedomicilieer is, indien hy nie 'n verbode immigrant in die Republiek is nie of sy binnekoms in of verblyf in dié distrik nie onwettig was nie en hy nie wettiglik slegs tydelik of vir 'n tydelike doel tot dié distrik toegelaat is nie;
 - (c) elke Xhosa-sprekende Bantoe persoon in die Republiek, met inbegrip van elke Bantoe persoon wat tot 'n verwante taalgroep behoort en wat gewoonlik 'n dialek van die tale in omgang onder diegene algemeen bekend as Kaapse Nguni gebruik, mits so 'n persoon nie aan 'n ander Bantoe tuisland as die Transkei behoort of onder die gesag van 'n ander gebieds- of streeksoowerheid of -raad of 'n ander selfregerende gebied val nie;
 - (d) elke Sotho-sprekende Bantoe persoon in die Republiek wat afkomstig is of gewoonlik as 'n lid beskou word van enige van die Sotho-sprekende stamme woonagtig in enige van voormelde distrikte.
- (3) Die Republiek beskou nie 'n burger van die Transkei as 'n vreemdeling in die Republiek nie, en beskou hom op grond van sy burgerskap van 'n gebied wat deel van die Republiek van Suid-Afrika uitmaak, vir alle buitelandse doeleindes ooreenkomstig internasionale reg as 'n burger van die Republiek en verleen aan hom volle beskerming ingevolge die internasionale reg.
- (4) Iemand wat 'n burger van die Transkei is, word nie bloot op grond van die bepalings van hierdie artikel van enige pligte, verpligtings of verantwoordelikhede onthef en verbeur nie op grond daarvan enige bestaande regte, voorregte of voordele wat by ontstentenis van bedoelde bepalings in sy geval van toepassing sou gewees het nie.
8. 'n Burger van die Transkei wat 'n burger of onderdaan van 'n ander land of van 'n ander selfregerende Bantoegebied word, hou op om 'n burger van die Transkei te wees.

Verlies van burgerskap.

DEEL IV.

DIE UITVOERENDE GESAG.

9. Die uitvoerende gesag van die Transkei met betrekking tot alle aangeleenthede ten opsigte waarvan die Wetgewende Vergadering kragtens die bepalings van hierdie Wet gemagtig is om wette te maak, berus by 'n Kabinet saamgestel soos hieronder voorgeskryf.
10. (1) Die Kabinet bestaan uit 'n Hoofminister en vyf ander Ministers, wat verantwoordelik is vir die administrasie van die departemente in Deel A van die Eerste Bylae by hierdie Wet vermeld.
- (2) Die Staatspresident kan te eniger tyd by proklamasie in die *Staatskoerant*—
- (a) die administrasie van verdere departemente aan die Kabinet toewys; en die Eerste Bylae by hierdie Wet dienoreenkomstig wysig;
 - (b) vir vermeerdering van die getal lede van die Kabinet tot hoogstens nege voorsiening maak.
11. (1) Vrae wat in die Kabinet ontstaan, word by meerderheid van stemme van die aanwesige lede beslis, en by 'n staking van stemme oefen die Hoofminister 'n beslissende stem uit.
- (2) Die Kabinet kan reëls vir die bestuur van sy verrigtings uitvaardig.
12. Die Hoofminister en die ander Ministers word by geheime stemming deur die lede van die Wetgewende Vergadering uit hul geledere verkies by die eerste sessie van elke Vergadering na 'n algemene verkiesing: Met dien verstande dat die verkiesing van bedoelde ander Ministers geskied op 'n sitting van die Vergadering wat nie vroeër plaasvind as een dag na die dag waarop die Hoofminister verkies word nie.
13. (1) Nominasies van kandidate vir verkiesing as Hoofminister word op die sitting van die Wetgewende Vergadering waarop die verkiesing moet plaasvind, deur die Voorsitter van die Vergadering gevra.
- (2) Elke nominasie moet in die voorgeskrewe vorm voorgelê word en moet onderteken wees deur twee lede van die Wetgewende Vergadering en ook deur die genomineerde persoon, tensy hy sy gewilligheid om nominasie te aanvaar skriftelik te kenne gegee het.
- (3) Die name van persone wat behoorlik genomineer is, moet deur die Voorsitter afgekondig word op die sitting waarop die verkiesing moet plaasvind, en geen debat word by die verkiesing toegelaat nie.

Uitvoerende gesag berus by Kabinet.

Samestelling van Kabinet.

Bestuur van verrigtings van Kabinet.

Hoofminister en Ministers word deur Wetgewende Vergadering gekies.

Metode van verkiesing van Hoofminister.

(4) If in respect of any election only one nomination is received, the Chairman shall declare the candidate in question to be duly elected.

(5) Where more than one candidate is nominated for election, a vote shall be taken by secret ballot, each member of the Legislative Assembly present at the meeting in question having one vote, and any candidate in whose favour a majority of all the votes cast is recorded, shall be declared duly elected by the Chairman.

(6) If no candidate obtains a majority of all the votes so cast, the candidate who received the smallest number of votes shall be eliminated and a further ballot taken in respect of the remaining candidates, this procedure being repeated as often as may be necessary until a candidate receives a majority of all the votes cast and is declared duly elected.

(7) Whenever two or more candidates being the lowest on the poll have received the same number of votes, the Assembly shall by separate vote, to be repeated as often as may be necessary, determine which of those candidates shall for the purposes of sub-section (6) be eliminated.

(8) Whenever—

(a) only two candidates have been nominated; or

(b) after the elimination of one or more candidates in accordance with the provisions of this section, only two candidates remain

and there is an equality of votes between those two candidates a further vote between these two candidates shall be taken at the next meeting of the Assembly and at every daily meeting thereafter until one candidate receives a majority of the votes cast and is declared duly elected.

Election of Ministers.

14. (1) Whenever Ministers (other than the Chief Minister) are required to be elected, the Chairman of the Legislative Assembly shall at the meeting at which the election is to take place announce the number of Ministers required to be elected and call for the nomination of candidates.

(2) Every nomination shall be submitted in the form prescribed and shall be signed by two members of the Assembly and also by the person nominated unless he has in writing signified his willingness to accept nomination.

(3) The names of the persons duly nominated shall be announced by the Chairman of the Assembly at the meeting at which the election is to take place, and no debate shall be allowed at the election.

(4) If in respect of any election the number of candidates nominated is equal to the number of persons to be elected, the Chairman shall declare the candidates in question to be all duly elected.

(5) Where more candidates are nominated than are to be elected, a vote shall be taken by secret ballot at which each member of the Assembly present at the meeting shall have and exercise one vote in respect of each Minister to be elected, but not more than one vote in respect of any one candidate, after which ballot the candidate obtaining the smallest number of votes shall be eliminated, this procedure being repeated as often as may be necessary until only the required number of candidates remains and they shall then be declared by the Chairman to be duly elected.

(6) Whenever two or more candidates have received the same number of votes, and one of those candidates is required to be eliminated for the purposes of sub-section (5) the Assembly shall by separate vote, to be repeated as often as may be necessary, determine which of those candidates shall be eliminated.

Chairman to vacate chair if he is nominated.

15. In the event of the Chairman of the Legislative Assembly being nominated as a candidate for election as Chief Minister or as a Minister, the Deputy-Chairman of the Assembly shall preside at the election, and if both the Chairman and the Deputy-Chairman are so nominated the Secretary of the Assembly shall preside.

Qualifications and disqualifications of Cabinet Members.

16. (1) The qualifications and disqualifications hereinafter prescribed in respect of members of the Legislative Assembly shall apply also in respect of members of the Cabinet, and any member of the Cabinet shall vacate his seat—

(a) if he ceases to possess the said qualifications or becomes subject to any of the said disqualifications; or

(b) if he resigns his seat by notice in writing addressed to the Chief Minister or by making an announcement to that effect at a meeting of the Cabinet or of the Legislative Assembly; or

(4) Indien daar ten opsigte van enige verkiesing slegs een nominasie ontvang word, word die betrokke kandidaat deur die Voorsitter behoorlik verkies verklaar.

(5) Waar meer as een kandidaat vir verkiesing genomineer word, vind 'n geheime stemming plaas, waarby elke by die betrokke sitting van die Wetgewende Vergadering aanwesige lid een stem het, en word 'n kandidaat ten gunste van wie 'n meerderheid van al die stemme wat uitgebring is, aangeteken word, deur die Voorsitter behoorlik verkies verklaar.

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

(7) Wanneer twee of meer kandidate dieselfde getal stemme behaal het, maar minder as al die ander kandidate, bepaal die Vergadering by afsonderlike stemming, wat so dikwels nodig herhaal word, watter van daardie kandidate vir die doeleindes van sub-artikel (6) uitgeskakel moet word.

(8) Wanneer—

(a) slegs twee kandidate genomineer is; of

(b) daar na die uitskakeling van een of meer kandidate ooreenkomstig die bepalinge van hierdie artikel slegs twee kandidate oorbly,

en daar 'n staking van stemme tussen daardie twee kandidate is, word 'n verdere stemming tussen dié twee kandidate gehou by die volgende sitting van die Vergadering en by elke daaglikse sitting daarna totdat een kandidaat 'n meerderheid van die stemme wat uitgebring word, behaal, en behoorlik verkies verklaar word.

14. (1) Wanneer ander Ministers as die Hoofminister verkies moet word, maak die Voorsitter van die Wetgewende Vergadering, op die sitting waarop die verkiesing moet plaasvind, die getal Ministers bekend wat verkies moet word en vra hy nominasies van kandidate.

Verkiesing
van Ministers.

(2) Elke nominasie moet in die voorgeskrewe vorm voorgelê word en onderteken wees deur twee lede van die Vergadering, en ook deur die genomineerde persoon, tensy hy sy gewilligheid om nominasie te aanvaar skriftelik te kenne gegee het.

(3) Die name van die persone wat behoorlik genomineer is, moet op die sitting waarop die verkiesing moet plaasvind, deur die Voorsitter van die Vergadering afgekondig word, en geen debat word by die verkiesing toegelaat nie.

(4) Indien die getal kandidate ten opsigte van 'n verkiesing genomineer, gelyk is aan die getal persone wat verkies moet word, verklaar die Voorsitter al die betrokke kandidate behoorlik verkies.

(5) Indien meer kandidate genomineer word as wat verkies moet word, vind 'n geheime stemming plaas waarby elke aanwesige lid van die Vergadering een stem het en moet uitoeven ten opsigte van elke Minister wat verkies moet word, maar nie meer as een stem ten opsigte van 'n enkele kandidaat nie, en word na die stemming die kandidaat wat die minste stemme gekry het, uitgeskakel, en hierdie prosedure word herhaal so dikwels as wat nodig is totdat slegs die vereiste getal kandidate oorbly, wat dan deur die Voorsitter behoorlik verkies verklaar word.

(6) Wanneer twee of meer kandidate dieselfde getal stemme behaal het, en een van dié kandidate vir die doeleindes van sub-artikel (5) uitgeskakel moet word, bepaal die Vergadering by afsonderlike stemming, wat so dikwels nodig herhaal word, watter van dié kandidate uitgeskakel moet word.

15. Ingeval die Voorsitter van die Wetgewende Vergadering as 'n kandidaat vir verkiesing as Hoofminister of as 'n Minister genomineer word, sit die Ondervoorsitter van die Vergadering by die verkiesing voor, en indien sowel die Voorsitter as die Ondervoorsitter aldus genomineer word, moet die Sekretaris van die Vergadering voorsit.

Voorsitter
ontruim
voorsitterstoel
indien hy
genomineer word.

16. (1) Die kwalifikasies en diskwalifikasies hieronder ten opsigte van lede van die Wetgewende Vergadering voorgeskryf, is ook ten opsigte van lede van die Kabinet van toepassing, en 'n lid van die Kabinet ontruim sy amp—

Kwalifikasies en
diskwalifikasies
van Kabinetslede.

(a) indien hy ophou om bedoelde kwalifikasies te besit of aan enige van bedoelde diskwalifikasies onderhewig word; of

- (c) if he is removed in terms of section *twenty*; or
- (d) if he ceases to be a member of the Legislative Assembly.

(2) If a member of the Cabinet vacates his seat otherwise than in pursuance of his resignation announced at a meeting of the Legislative Assembly the Chief Minister shall at the first ensuing meeting of the Assembly inform the Assembly accordingly.

**Casual vacancies
in Cabinet.**

17. Any casual vacancy arising in the Cabinet shall be filled by election in accordance with the provisions of this Act to be held within a period of fourteen days after the date on which the vacancy occurred if the Assembly is then in session, and, if the Assembly is not then in session, a special session of the Legislative Assembly shall be convened for the purpose within a period of two months after the date on which the vacancy occurred.

**Oath for
Members of
Cabinet.**

18. Every Minister, including the Chief Minister, shall before assuming his duties make and subscribe before the Chairman of the Legislative Assembly at a sitting of the Assembly an oath in the following form:

I, A.B., do hereby swear to hold my office as Minister of the Transkeian Cabinet with honour and dignity; to respect and uphold the constitution of the Transkei and all other laws applicable in the Transkei; to be a true and faithful Minister; not to divulge directly or indirectly any matters brought before the Cabinet which are entrusted to me under secrecy; and to perform the duties of my office conscientiously and to the best of my ability; and I undertake before God to honour this oath.

So help me God.

**Duration of
office of Cabinet.**

19. The members of a Cabinet shall, subject to the provisions of section *twenty*, hold office for the duration of the Legislative Assembly by which they were elected and until their successors are elected by a new Assembly after a general election.

**Petition for
removal of
Cabinet or
Minister.**

20. (1) The Legislative Assembly may for sound and cogent reasons by petition request the State President to remove any Cabinet or any member thereof and to order the election of a new Cabinet or another Minister for the remainder of the life of that Legislative Assembly, and the State President may if he deems fit accede to any such petition.

(2) A petition in terms of sub-section (1) shall be conveyed by the Chairman of the Assembly to the Minister of Bantu Administration and Development for presentation to the State President.

(3) The decision of the State President on such a petition shall within a period of seven days after it is received be tabled in the Legislative Assembly if the Assembly is then in session, or, if the Assembly is not then in session, within a period of seven days from the date of the opening of the next session of the Assembly, and, where the removal of the Cabinet occurs at a time when the Assembly is not in session, steps shall forthwith be taken to convene a session of the Assembly.

(4) The Chairman of the Assembly shall forthwith after notice of the removal of the Cabinet or a member thereof has been tabled announce the removal and proceed with the election of a new Cabinet or member thereof in terms of this Act.

**Functions of
Chief Minister.**

21. (1) The Chief Minister or (in his absence) a Minister nominated by him for the purpose shall preside at all Cabinet meetings.

(2) Whenever the office of the Chief Minister becomes vacant or the Chief Minister is absent or unable to act and no person has been nominated to act under sub-section (1) the remaining members of the Cabinet shall designate one of their number to act as Chief Minister until the vacancy is filled or, as the case may be, until the Chief Minister is able to resume his functions.

(3) The Chief Minister shall assign and allocate the responsibility for the control and administration of the different departments to the various Ministers as he deems fit and he may also allocate the powers, duties and functions to be exercised or performed in connection with the various matters set out in the First Schedule to this Act amongst the respective

- (b) indien hy by skriftelike kennisgewing gerig aan die Hoofminister of by aankondiging te dien effekte op 'n sitting van die Kabinet of van die Wetgewende Vergadering uit sy amp bedank; of
- (c) indien hy kragtens artikel *twintig* onthef word; of
- (d) indien hy ophou om lid van die Wetgewende Vergadering te wees.

(2) Indien 'n lid van die Kabinet op 'n ander wyse as by aankondiging van sy bedanking op 'n sitting van die Wetgewende Vergadering sy amp ontruim, verwittig die Hoofminister die Vergadering dienooreenkomstig by die eerste daaropvolgende sitting van die Vergadering.

17. Enige toevallige vakature wat in die Kabinet ontstaan, word gevul by verkiesing ooreenkomstig die bepalings van hierdie Wet, wat gehou word binne 'n tydperk van veertien dae na die datum waarop die vakature ontstaan het as die Vergadering dan in sessie is, en, as die Vergadering dan nie in sessie is nie, word binne 'n tydperk van twee maande na die datum waarop die vakature ontstaan het 'n spesiale sessie van die Wetgewende Vergadering vir die doel belê.

Toevallige vakatures in Kabinet.

18. Elke Minister, met inbegrip van die Hoofminister, moet voordat hy sy pligte aanvaar, by 'n sitting van die Wetgewende Vergadering voor die Voorsitter van die Vergadering 'n eed in die volgende vorm aflê en onderteken:

Eed vir lede van die Kabinet.

Ek, A.B., sweer hierby om my amp as Minister van die Transkeise Kabinet op eervolle en waardige wyse te beklee; om die Grondwet van die Transkei en alle ander wette wat in die Transkei geld, te eerbiedig en te handhaaf; om 'n opregte en getroue Minister te wees; om geen sake wat voor die Kabinet dien en wat aan my vir geheimhouding toevertrou word, regstreeks of onregstreeks te openbaar nie; en om my ampspligte met nougesetheid na die beste van my vermoë na te kom; en ek onderneem voor God om hierdie eed te eerbiedig.

So help my God.

19. Behoudens die bepalings van artikel *twintig*, beklee lede van 'n Kabinet hul amp vir die duur van die Wetgewende Vergadering waardeur hulle verkies is en totdat hul opvolgers deur 'n nuwe Vergadering na 'n algemene verkiesing verkies word.

Ampstermyn van Kabinet.

20. (1) Die Wetgewende Vergadering kan om grondige en oortuigende redes by versoekskrif aan die Staatspresident versoek dat 'n Kabinet of 'n lid daarvan ontslaan en die verkiesing van 'n nuwe Kabinet of 'n ander Minister vir die oorblywende termyn van daardie Wetgewende Vergadering gelas word, en die Staatspresident kan na goëddunke aan so 'n versoekskrif voldoen.

Versoekskrif vir ontslag van Kabinet of 'n Minister.

(2) 'n Versoekskrif ingevolge sub-artikel (1) word deur die Voorsitter van die Vergadering oorgedra aan die Minister van Bantoe-administrasie en -ontwikkeling om aan die Staatspresident voorgelê te word.

(3) Die beslissing van die Staatspresident oor so 'n versoekskrif word binne 'n tydperk van sewe dae na ontvangs daarvan in die Wetgewende Vergadering ter tafel gelê, indien die Vergadering dan in sessie is, of, indien die Vergadering dan nie in sessie is nie, binne 'n tydperk van sewe dae vanaf die openingsdatum van die volgende sessie van die Vergadering, en, indien die Kabinet ontslaan word terwyl die Vergadering nie in sessie is nie, word stappe onverwyld gedoen om 'n sessie van die Vergadering te belê.

(4) Die Voorsitter van die Vergadering moet onmiddellik nadat kennisgewing van die ontslag van die Kabinet of van 'n lid daarvan ter tafel gelê is, die ontslag aankondig en stappe doen vir die verkiesing van 'n nuwe Kabinet of lid daarvan ingevolge hierdie Wet.

21. (1) Die Hoofminister of (in sy afwesigheid) 'n Minister deur hom vir die doel benoem, sit voor by alle Kabinetsvergaderings.

Werksaamhede van Hoofminister.

(2) Wanneer die amp van die Hoofminister vakant raak of die Hoofminister afwesig is of nie in staat is om op te tree nie, en niemand ingevolge sub-artikel (1) benoem is om waar te neem nie, wys die oorblywende lede van die Kabinet een uit hul midde aan om as Hoofminister op te tree totdat die vakature gevul word of, na gelang van die geval, totdat die Hoofminister in staat is om sy werksaamhede te hervat.

(3) Die Hoofminister moet na goëddunke die verantwoordelikheid vir die beheer en administrasie van die verskillende departemente aan die onderskeie Ministers opdra en toewys, en kan ook die bevoegdhede, pligte en werksaamhede wat ten opsigte van die verskillende aangeleenthede in die Eerste Bylae

departments and, if necessary, re-organize such departments in the interest of better administration after consultation with the Public Service Commission and with the Ministers affected.

Administrative control, powers, authorities and functions of Cabinet.

22. Subject to the provisions of this Act, the administrative control, powers, authorities and functions (other than legislative powers) which immediately prior to the date of the constitution of the first Cabinet for the Transkei were vested in or exercised by the State President in relation to matters in respect of which the Legislative Assembly may make laws in terms of this Act, shall be vested in the Cabinet: Provided that nothing in this Act contained shall be construed as preventing any department, institution, board, body or person under the control of the Government of the Republic from performing any functions in connection with any such matter in accordance with such terms and conditions as may be agreed upon between the said Government and the Government of the Transkei.

PART V.

THE LEGISLATIVE ASSEMBLY.

Composition of Assembly.

23. There shall be a legislative council in the Transkei to be known as the Legislative Assembly, which shall, subject to the provisions of section *twenty-five*, consist of—

- (a) the paramount chiefs of the Transkei;
- (b) the sixty chiefs holding office in the nine regional authority areas in the Transkei, as follows, namely—
 - (i) ten chiefs in respect of the Dalindyebo region;
 - (ii) eight chiefs in respect of the Emboland region;
 - (iii) six chiefs in respect of the Emigrant Tembuland region;
 - (iv) three chiefs in respect of the Fingo region;
 - (v) four chiefs in respect of the Gcaleka region;
 - (vi) eight chiefs in respect of the Maluti region;
 - (vii) three chiefs in respect of the Nyanda region;
 - (viii) fourteen chiefs in respect of the Qaukeni region; and
 - (ix) four chiefs in respect of the Umzimkulu region; and
- (c) forty-five members elected by the registered voters of the Transkei.

Representatives of paramount chiefs.

24. (1) Every paramount chief shall be entitled to appoint a representative to accompany him to any or all meetings of the Legislative Assembly or to attend such meetings on his behalf and every such duly appointed representative shall, subject to the provisions of sub-section (5), for the duration of his appointment be entitled to attend all the meetings of the Legislative Assembly.

(2) Any appointment under sub-section (1) shall be in writing and shall be signed by the paramount chief concerned personally.

(3) The paramount chief concerned shall in writing advise the chairman of the Legislative Assembly of any such appointment made by him and of any revocation of any such appointment.

(4) No person shall be eligible for appointment as such a representative unless he qualifies to be elected or to be a member of the Legislative Assembly.

(5) The paramount chief or his representative may participate in all the proceedings in connection with any matter brought before the Assembly but if either of them so participates the other shall not so participate.

(6) The representative of the paramount chief shall not hold any office in the Cabinet or the Legislative Assembly.

Number of chiefs in Assembly.

25. (1) The total number of paramount chiefs and chiefs in the Legislative Assembly shall not at any time exceed sixty-four, and if any paramount chieftainship is created in any area, whether in addition to those existing in the Dalindyebo, Gcaleka, Nyanda or Qaukeni regional authority area or in any other region, the number of chiefs representing the region affected shall be reduced correspondingly.

(2) Where by reason of the provisions of sub-section (1) or in consequence of an increase in the number of chiefs in any region, one or more chiefs are to be excluded from membership

by hierdie Wet vermeld, uitgeoefen of verrig moet word, onder die onderskeie departemente indeel, en kan, indien nodig, bedoelde departemente na oorlegpleging met die Regeringsdienskommissie en die betrokke Ministers met die oog op beter administrasie herorganiseer.

22. Behoudens die bepalings van hierdie Wet, berus die administratiewe beheer, bevoegdhede, magte en werksaamhede (uitgesonderd wetgewende bevoegdhede) met betrekking tot aangeleenthede ten opsigte waarvan die Wetgewende Vergadering ingevolge hierdie Wet wette kan maak, en wat onmiddellik voor die datum van die samestelling van die eerste Kabinet vir die Transkei by die Staatspresident berus het of deur hom uitgeoefen is, by die Kabinet: Met dien verstande dat die bepalings van hierdie Wet nie so uitgelê word dat dit enige departement, inrigting, raad, liggaam of persoon onder die beheer van die Regering van die Republiek verhinder om ooreenkomstig die bedinge en voorwaardes waarop daar tussen bedoelde Regering en die Regering van die Transkei ooreengekom word, enige werksaamhede in verband met so 'n aangeleentheid te verrig nie.

Administratiewe beheer, bevoegdhede, magte en werksaamhede van Kabinet.

DEEL V.

DIE WETGEWENDE VERGADERING.

23. Daar is 'n wetgewende raad vir die Transkei, wat as die Wetgewende Vergadering bekend staan en wat, behoudens die bepalings van artikel vyf-en-twintig, bestaan uit—

Samestelling van Vergadering.

- (a) die hoofkapteins van die Transkei;
- (b) die sestig kapteins wat in die hierondervermelde nege streeksowerheidsgebiede in die Transkei dien, te wete—
 - (i) tien kapteins ten opsigte van die Dalindyebo-streek;
 - (ii) agt kapteins ten opsigte van die Embolandstreek;
 - (iii) ses kapteins ten opsigte van die Emigrant-Temboeland-streek;
 - (iv) drie kapteins ten opsigte van die Fingo-streek;
 - (v) vier kapteins ten opsigte van die Gcalekastreek;
 - (vi) agt kapteins ten opsigte van die Malutistreek;
 - (vii) drie kapteins ten opsigte van die Nyandastreek;
 - (viii) veertien kapteins ten opsigte van die Qaukeni-streek; en
 - (ix) vier kapteins ten opsigte van die Umzimkulu-streek; en
- (c) vyf-en-veertig lede deur geregistreerde kiesers van die Transkei verkies.

24. (1) Elke hoofkaptein is geregtig om 'n verteenwoordiger aan te stel om hom na enige van of al die sittings van die Wetgewende Vergadering te vergesel of om dié sittings namens hom by te woon, en elke aldus behoorlik aangestelde verteenwoordiger is, behoudens die bepalings van sub-artikel (5), geregtig om vir die duur van sy aanstelling al die sittings van die Wetgewende Vergadering by te woon.

Verteenwoordigers van hoofkapteins.

(2) 'n Aanstelling kragtens sub-artikel (1) moet skriftelik geskied en deur die betrokke hoofkaptein persoonlik onderteken word.

(3) Die betrokke hoofkaptein verwittig die Voorsitter van die Wetgewende Vergadering skriftelik van so 'n aanstelling deur hom gemaak en van enige intrekking van so 'n aanstelling.

(4) Niemand kom vir aanstelling as so 'n verteenwoordiger in aanmerking nie tensy hy gekwalifiseer is om tot die Wetgewende Vergadering verkies te word of om 'n lid daarvan te wees.

(5) Die hoofkaptein of sy verteenwoordiger kan deelneem aan al die verrigtings ten opsigte van enige aangeleentheid wat voor die Vergadering dien, maar indien een van hulle aldus deelneem, mag die ander nie aldus deelneem nie.

(6) Die verteenwoordiger van die hoofkaptein mag geen amp in die Kabinet of die Wetgewende Vergadering beklee nie.

25. (1) Die totale getal hoofkapteins en kapteins in die Wetgewende Vergadering mag te gener tyd vier-en-sestig oorskry nie, en indien 'n hoofkapteinskap in enige gebied geskep word, hetsy benewens die wat in die Dalindyebo-, Gcaleka-, Nyanda- of Qaukeni-streeksowerheidsgebied of in enige ander streek bestaan, word die getal kapteins wat die betrokke streek verteenwoordig dienooreenkomstig verminder.

Getal kapteins in Vergadering.

(2) Wanneer daar vanweë die bepalings van sub-artikel (1) of as gevolg van 'n vermeerdering van die getal kapteins in enige streek, een of meer kapteins van lidmaatskap van die Ver-

of the Assembly, the person or persons so to be excluded shall be determined by secret ballot at a meeting of the paramount chiefs, if any, and chiefs in the region affected to be convened by the Chairman of the Assembly.

Electoral divisions and determination of number of members in each division.

26. The nine regional authority areas in the Transkei shall be electoral divisions for the election of the forty-five elected members of the Legislative Assembly, and the number of members to be elected in respect of each electoral division shall be in proportion to the respective total numbers of registered voters in the various electoral divisions.

Persons entitled to register as voters and vote.

27. (1) Subject to the provisions of sub-section (2) every citizen of the Transkei over the age of twenty-one years or (in the case of a taxpayer of the Transkei) eighteen years who is not subject to any of the disqualifications mentioned in section *twenty-eight* shall be entitled to be registered as a voter in one of the electoral divisions in the Transkei, and every person so registered shall at any election of members of the Legislative Assembly have as many votes as there are members to be elected for the electoral division in respect of which he is registered but shall not record more than one vote in respect of any candidate.

(2) The registration of voters shall take place in accordance with the relevant laws regulating the franchise, registration of voters and elections in the Transkei, and only persons who have been registered as voters shall be entitled to vote at any election.

(3) The method of recording and counting of votes at any election and the circumstances under which any candidate for election shall be deemed to have been duly elected and the procedure (which may include the drawing of lots) to be adopted where two or more candidates for the same seat have obtained the same number of votes shall be as prescribed by regulation under section *seventy* or, where the Assembly has by law made provision for the purpose, as prescribed in such law.

Disqualification of voters.

28. (1) No person shall be entitled to be registered or to the continuance of his registration or to vote in any division—

(a) if he has been convicted in the Transkei or elsewhere in the Republic or in the Territory of South-West Africa—

- (i) of treason; or
- (ii) of murder; or

(iii) of any other offence and sentenced therefor to a period of imprisonment without the option of a fine (other than detention until the rising of the Court), or ordered to be detained under any law relating to work colonies, and the said period has not expired or such order has not finally ceased to be operative at least three years before the date of completion of his application to be registered or the date upon which it is decided whether or not his name is to be removed from the voters' list or polling day, as the case may be; or

(b) if he has been convicted of any corrupt or illegal practice under the laws regulating the franchise, registration of voters and elections in the Transkei and has been declared incapable of being registered or of voting at any election during any period, and the said period has not expired; or

(c) if he is subject to an order of court declaring him to be of unsound mind or mentally disordered or defective or is lawfully detained as mentally disordered or defective under the Mental Disorders Act, 1916 (Act No. 38 of 1916).

(2) For the purposes of paragraph (a) of sub-section (1), a person who has been granted a free pardon shall be deemed not to have been convicted of the offence in question, and a period of imprisonment means the full term of a sentence of imprisonment, notwithstanding any suspension or remission of the whole or any portion of the sentence.

Qualification of members.

29. No person shall be qualified to be elected or to be a member of the Legislative Assembly, unless he—

- (a) is over the age of twenty-one years;
- (b) is registered as a voter in the electoral division in respect of which he has been or is to be elected; and
- (c) is a citizen of the Transkei in terms of this Act.

gadering uitgesluit moet word, word die persoon of persone wat aldus uitgesluit moet word by geheime verkiesing bepaal op 'n vergadering van hoofkapteins, as daar is, en kapteins van die betrokke streek vir die doel deur die Voorsitter van die Vergadering belê.

26. Die nege streeksowerheidsgebiede in die Transkei is kiesafdelings vir die verkiesing van die vyf-en-veertig verkose lede van die Wetgewende Vergadering, en die getal lede wat ten opsigte van elke kiesafdeling verkies moet word, moet in verhouding tot die onderskeie totale getalle geregistreerde kiesers in die verskillende kiesafdelings wees.

Kiesafdelings en vasstelling van getal lede in elke afdeling.

27. (1) Elke burger van die Transkei bo die ouderdom van een-en-twintig jaar, of, in die geval van 'n belastingbetaler van die Transkei, agtien jaar, wat nie aan enige van die diskwalifikasies genoem in artikel *agt-en-twintig* onderhewig is nie, het, behoudens die bepalings van sub-artikel (2), die reg om as 'n kieser in een van die kiesafdelings in die Transkei geregistreer te word, en elke aldus geregistreerde persoon het by 'n verkiesing van lede van die Wetgewende Vergadering soveel stemme as wat daar lede is wat verkies moet word vir die kiesafdeling ten opsigte waarvan hy geregistreer is, maar bring nie meer as een stem ten opsigte van 'n kandidaat uit nie.

Persone geregtig om as kiesers geregistreer te word en te stem.

(2) Die registrasie van kiesers geskied ooreenkomstig die toepaslike wetsbepalings met betrekking tot stemreg, registrasie van kiesers en verkiesings in die Transkei, en slegs persone wat as kiesers geregistreer is, is geregtig om by 'n verkiesing te stem.

(3) Die metode vir die uitbring en tel van stemme by 'n verkiesing en die omstandighede waaronder 'n kandidaat vir verkiesing behoorlik verkose geag word en die prosedure (wat loting mag insluit) wat gevolg moet word waar twee of meer kandidate vir dieselfde setel gelyke getalle stemme verkry het, is soos voorgeskryf by regulasies uitgevaardig kragtens artikel *sewentig* of, indien die Vergadering by wet vir die doel voorsiening gemaak het, soos in dié wet voorgeskryf.

28. (1) Niemand is geregtig om in 'n afdeling geregistreer te word of te bly of daarin te stem nie—

Diskwalifikasie van kiesers.

(a) indien hy in die Transkei of elders in die Republiek of in die gebied Suidwes-Afrika skuldig bevind is—

- (i) aan hoogverraad; of
- (ii) aan moord; of
- (iii) aan enige ander misdryf en daarvoor gevonnissen tot 'n tydperk van gevangenisstraf (behalwe aanhouding tot die verdagting van die Hof) sonder die keuse van 'n boete of bevel is om kragtens 'n wetsbepaling betreffende werkkolonies aangehou te word, en genoemde tydperk nie verstryk het nie, of bedoelde bevel nie finaal buite werking getree het nie, minstens drie jaar voor die datum van voltooiing van sy aansoek om geregistreer te word of die datum waarop besluit word of sy naam uit die kieserslys verwyder moet word al dan nie of stembag, na gelang van die geval; of

(b) indien hy skuldig bevind is aan 'n korrupte of onwettige bedrywigheid ingevolge die wette wat stemreg, die registrasie van kiesers en verkiesings in die Transkei reël, en onbevoeg verklaar is om gedurende enige tydperk geregistreer te word of by 'n verkiesing te stem, en bedoelde tydperk nie verstryk het nie; of

(c) indien hy onderhewig is aan 'n hofbevel waarby hy kranksinnig of geestelik gekrenk of gebrekkig verklaar is of wettiglik kragtens die „Wet op Geestesgebreken, 1916” (Wet No. 38 van 1916), as geestelik gekrenkte of gebrekkige aangehou word.

(2) By die toepassing van paragraaf (a) van sub-artikel (1) word 'n persoon wat ten volle begenadig is, geag nie aan die betrokke misdryf skuldig bevind te gewees het nie, en beteken 'n tydperk van gevangenisstraf die hele termyn van 'n vonnis tot gevangenisstraf, al is die vonnis in die geheel of gedeeltelik opgeskort of kwytgeskeld.

29. Niemand is bevoeg om as lid van die Wetgewende Vergadering verkies te word of so 'n lid te wees nie, tensy hy—

Bevoegdheid van lede.

- (a) bo die ouderdom van een-en-twintig jaar is;
- (b) as 'n kieser geregistreer is in die kiesafdeling waarin hy verkies is of staan te word; en
- (c) ingevolge hierdie Wet 'n burger van die Transkei is.

**Life of
Assembly.**

30. (1) Every Legislative Assembly shall continue for five years from the date of its first meeting and no longer, but may at any time on the recommendation of the Cabinet or the Assembly be dissolved by the State President by proclamation in the *Gazette*.

(2) Any proclamation under sub-section (1) shall provide for a general election to be held on a date specified in the proclamation for the election of members of the Assembly who are in terms of paragraph (c) of section *twenty-three* required to be elected.

**Vacation of
seats by
members of
Assembly.**

31. The seat of a member of the Legislative Assembly shall be deemed to have been vacated—

- (a) upon the death of such member;
- (b) upon receipt by the Secretary of the Assembly of a notice under the hand of such member stating that he resigns;
- (c) if such member or, in the case of a paramount chief, both such paramount chief and his representative, if any, fail for a whole ordinary session to attend any of the sittings of the Assembly without its special leave;
- (d) if he ceases to possess the qualifications mentioned in section *twenty-nine*; or
- (e) in the case of a paramount chief or a chief if he ceases to be a paramount chief or a chief.

**Vacation of
seat of
paramount chief
or chief.**

32. (1) In the event of the seat of any paramount chief or chief becoming vacant for any of the reasons mentioned in section *thirty-one*, such paramount chief or chief shall, unless the Legislative Assembly by resolution otherwise decides, also be deemed to have vacated his paramount chieftainship or chieftainship.

(2) If the Legislative Assembly by resolution decides that such paramount chief or chief shall not vacate his paramount chieftainship or chieftainship he shall be deemed to have been re-instated as a member of the Legislative Assembly with effect from the date of the resolution.

**Oath to be
taken by members
of Assembly.**

33. Every member of the Legislative Assembly shall before taking his seat make and subscribe before a Judge of the Supreme Court or, in the case of a member elected to fill a casual vacancy, before the Chairman of the Assembly an oath substantially in the following form:

I, A.B., do swear to respect and uphold the constitution of the Transkei and all other laws applicable in the Transkei and solemnly promise to perform my duties as a member of the Legislative Assembly of the Transkei to the best of my ability.

So help me God.

**Sessions of
Assembly.**

34. (1) There shall be a session of the Legislative Assembly at least once in every year so that a period of twelve months shall not intervene between the last sitting of the Assembly in one session and its first sitting in the next session.

(2) Every session of the Assembly shall be held at Umtata or at such other place as the Assembly may determine, and shall commence on a date to be fixed by the Chief Minister or if he is absent or unable to act, by the Chairman or, if he is absent or unable to act, the Deputy-Chairman of the Assembly, and if both the Chairman and the Deputy-Chairman are absent or unable to act, by the Secretary of the Assembly, and made known by notice in the *Gazette* not less than thirty days before the commencement of such session.

**Chairman and
Deputy-chairman
of Assembly.**

35. (1) Every Legislative Assembly shall at its first sitting and before proceeding with the dispatch of any other business, elect by ballot from amongst its members a Chairman and a Deputy-Chairman of the Assembly.

(2) The Chairman or the Deputy-Chairman may be removed from office by resolution of the Assembly and may resign his office or seat by writing under his hand addressed to the Secretary of the Assembly.

(3) If the office of Chairman or Deputy-Chairman becomes vacant the Legislative Assembly shall in like manner elect a new Chairman or Deputy-Chairman.

(4) The Chairman or, in his absence, the Deputy-Chairman shall preside at all sittings of the Legislative Assembly: Provided that the Secretary of the Legislative Assembly or a person

30. (1) Elke Wetgewende Vergadering duur vyf jaar vanaf die datum van sy eerste sitting, en nie langer nie, maar kan te eniger tyd op aanbeveling van die Kabinet of die Vergadering deur die Staatspresident by proklamasie in die *Staatskoerant* ontbind word.

Lewensduur van Vergadering.

(2) 'n Proklamasie ingevolge sub-artikel (1) moet voorsiening maak vir die hou van 'n algemene verkiesing op 'n datum in die proklamasie vermeld vir die verkiesing van lede van die Vergadering wat ingevolge paragraaf (c) van artikel *drie-en-twintig* verkies moet word.

31. Die setel van 'n lid van die Wetgewende Vergadering word geag ontruim te wees—

Ontruiming van setels deur lede van Vergadering.

- (a) by die afsterwe van bedoelde lid;
- (b) by ontvangs deur die Sekretaris van die Vergadering van 'n kennisgewing onderteken deur bedoelde lid waarby hy sy bedanking te kenne gee;
- (c) indien bedoelde lid of, in die geval van 'n hoofkaptein, sowel bedoelde hoofkaptein as sy verteenwoordiger, as daar een is, gedurende 'n hele gewone sessie sonder spesiale vergunning van die Vergadering in gebreke bly om enige van die sittings daarvan by te woon;
- (d) indien hy ophou om die in artikel *nege-en-twintig* genoemde kwalifikasies te besit; of
- (e) in die geval van 'n hoofkaptein of 'n kaptein, indien hy ophou om hoofkaptein of kaptein te wees.

32. (1) Ingeval die setel van 'n hoofkaptein of kaptein vakant raak om 'n rede in artikel *een-en-dertig* genoem, word bedoelde hoofkaptein of kaptein, tensy die Wetgewende Vergadering by besluit anders bepaal, geag ook op te gehou het om 'n hoofkaptein of kaptein te wees.

Ontruiming van setel van hoofkaptein of kaptein.

(2) Indien die Wetgewende Vergadering by besluit bepaal dat bedoelde hoofkaptein of kaptein nie sy amp as hoofkaptein of kaptein ontruim nie, word hy geag vanaf die datum van die besluit as lid van die Wetgewende Vergadering herstel te wees.

33. Elke lid van die Wetgewende Vergadering moet, voordat hy sy plek inneem, voor 'n Regter van die Hooggeregshof of, in die geval van 'n lid wat verkies is om 'n toevallige vakature te vul, voor die Voorsitter van die Vergadering 'n eed wat wesentlik in die volgende vorm is, aflê en onderteken:

Eed deur lede van Vergadering afgelê te word.

Ek, A.B., sweer om die Grondwet van die Transkei en alle ander wette wat in die Transkei van toepassing is, te eerbiedig en te handhaaf en beloof plegtig om my pligte as lid van die Wetgewende Vergadering van die Transkei na my beste vermoë te verrig.

So help my God.

34. (1) Daar moet minstens een maal elke jaar 'n sessie van die Wetgewende Vergadering plaasvind, en wel sodat daar nie 'n tydperk van twaalf maande tussen die laaste sitting van die Vergadering in een sessie, en sy eerste sitting in die daaropvolgende sessie verloop nie.

Sessies van Vergadering.

(2) Elke sessie van die Vergadering word gehou te Umtata of op die ander plek wat die Vergadering bepaal, en begin op 'n datum wat deur die Hoofminister of, indien hy afwesig is of nie in staat is om op te tree nie, deur die Voorsitter of, indien hy afwesig is of nie in staat is om op te tree nie, die Ondervoorsitter van die Vergadering, en indien sowel die Voorsitter as die Ondervoorsitter afwesig is of nie in staat is om op te tree nie, deur die Sekretaris van die Vergadering bepaal en minstens dertig dae voor die begin van die sessie by kennisgewing in die *Staatskoerant* bekend gemaak word.

35. (1) Elke Wetgewende Vergadering moet by sy eerste sitting en voordat met die afhandeling van enige ander werksaamhede begin word, met geslote stembriefies uit sy geledere 'n Voorsitter en 'n Ondervoorsitter vir die Vergadering kies.

Voorsitter en Ondervoorsitter van die Vergadering.

(2) Die Voorsitter of die Ondervoorsitter kan by besluit van die Vergadering van sy amp onthef word en kan by 'n skriftelike bedanking gerig aan die Sekretaris van die Vergadering uit sy amp of setel bedank.

(3) Indien die amp van Voorsitter of Ondervoorsitter vakant raak, moet 'n nuwe Voorsitter of Ondervoorsitter op dieselfde wyse deur die Vergadering gekies word.

(4) Die Voorsitter of, in sy afwesigheid, die Ondervoorsitter sit voor by alle sittings van die Wetgewende Vergadering: Met dien verstande dat die Sekretaris van die Wetgewende Ver-

designated by the Minister of Bantu Administration and Development shall preside at the first session of an Assembly until a chairman is elected.

Procedure in the
Legislative
Assembly.

36. (1) All questions in the Legislative Assembly shall be determined by a majority of votes of members present, other than the Chairman or (in his absence) the Deputy-Chairman, who shall have and exercise a casting vote in the case of an equality of votes.

(2) The presence of at least twenty-five members of the Legislative Assembly shall be necessary to constitute a meeting of the Assembly for the exercise of its powers.

(3) The Legislative Assembly may from time to time adopt standing rules and orders not inconsistent with this Act, for the regulation and conduct of its proceedings and the dispatch of business, for the passing, entitling and numbering of laws and, subject to confirmation by the State President, for the presentation of such laws to the State President in terms of section forty.

(4) Subject to the provisions of this Act and of any standing rules and orders, there shall be freedom of speech and debate in the Assembly.

(5) No member of the Cabinet or of the Assembly shall be liable to any legal proceedings by virtue of any matter which he may have brought by petition, draft law, resolution, motion or otherwise, or have said before the Legislative Assembly or a select committee of the Assembly, or by reason of his vote in the Assembly.

(6) Subject to the standing rules and orders of the Legislative Assembly the proceedings thereof shall be open to the public.

Legislative
powers of the
Legislative
Assembly.

37. (1) Subject to the provisions of this Act the Legislative Assembly shall have the power—

- (a) to make laws not inconsistent with this Act in relation to all matters appearing in part B of the First Schedule to this Act; and
- (b) to provide in any such law for the amendment or repeal of any law, including any Act of Parliament, in so far as it relates to any such matter and applies in the Transkei or to any citizen of the Transkei whether such citizen is or is resident within or outside the Transkei.

(2) Where in terms of the said Schedule the Legislative Assembly is empowered to make laws applicable in any area outside the Transkei or in relation to citizens of the Transkei who are or are resident elsewhere than in the Transkei but within the Republic, any such law shall have effect and may contain provision for the due enforcement thereof in any such area or, as the case may be, in relation to any such citizen in any place within the Republic wherever such citizen may be or may be resident.

(3) No law made after the commencement of this Act (including any Act of Parliament or Ordinance of a Provincial Council, but excluding a law made by the Legislative Assembly or any such Act or Ordinance as is referred to in sub-paragraph (ii) or (iii) of paragraph (a) of sub-section (1) of section fifty-two) which relates to any matter referred to in sub-section (1) shall apply in the Transkei or in relation to any citizen of the Transkei in respect of which the Legislative Assembly is empowered to make laws in so far as that matter is concerned.

Extension of
powers of
Legislative
Assembly.

38. The legislative power in respect of all matters not appearing in the First Schedule to this Act shall remain vested in the Parliament of the Republic, but the State President may from time to time with the approval, by resolution, of the Senate and the House of Assembly by proclamation in the *Gazette* amend the First Schedule by the addition of further matters (other than the matters specified in section thirty-nine) in respect of which legislative power shall be transferred to the Legislative Assembly.

Matters reserved
from legislation
by Legislative
Assembly.

39. The Legislative Assembly shall have no power to make laws in relation to any subject falling within the following classes of matters, namely—

- (a) the establishment, control, entry, movement or operation of any full-time or part-time military unit, quasi-military unit or organization of a military character, or of any unit, branch or service of any military organization within the Transkei or any other military matter of whatever nature;

gadering of 'n deur die Minister van Bantoe-administrasie en -ontwikkeling aangewese persoon by die eerste sessie van 'n Vergadering voorsit totdat 'n voorsitter gekies is.

36. (1) Alle vrae in die Wetgewende Vergadering word beslis by meerderheid van stemme van die aanwesige lede, met uitsondering van die Voorsitter of (in sy afwesigheid) die Ondervoorsitter, wat by 'n staking van stemme 'n beslissende stem het en uitbring.

Prosedure in
Wetgewende
Vergadering.

(2) Minstens vyf-en-twintig lede van die Wetgewende Vergadering moet aanwesig wees om 'n sitting van die Vergadering vir die uitoefening van sy bevoegdhede uit te maak.

(3) Die Wetgewende Vergadering kan van tyd tot tyd vaste reglemente van orde aanneem wat nie met hierdie Wet onbestaanbaar is nie vir die reëling en bestuur van sy verrigtings en die afhandeling van sy werksaamhede en vir die aanname en benaming van en die toewysing van nommers aan wette en, onderworpe aan bekragtiging deur die Staatspresident, vir die voorlegging van bedoelde wette aan die Staatspresident ooreenkomstig artikel veertig.

(4) Behoudens die bepalings van hierdie Wet en van enige vaste reglemente van orde is daar vryheid van spraak en debat in die Vergadering.

(5) Geen lid van die Kabinet of van die Vergadering is blootgestel aan enige regsgeding uit hoofde van enige aangeleentheid wat hy by versoekskrif, konsepwetgewing, besluit, voorstel of andersins aan die Wetgewende Vergadering voorgelê het of in die Vergadering of 'n gekose komitee van die Vergadering gesê het of uit hoofde van die wyse waarop hy in die Vergadering gestem het nie.

(6) Behoudens die vaste reglemente van orde van die Wetgewende Vergadering is die verrigtings daarvan oop vir die publiek.

37. (1) Behoudens die bepalings van hierdie Wet is die Wetgewende Vergadering bevoeg—

Wetgewende
bevoegdhede van
Wetgewende
Vergadering.

(a) om wette te maak wat nie met hierdie Wet strydig is nie ten opsigte van al die aangeleenthede in Deel B van die Eerste Bylae van hierdie Wet genoem; en

(b) om in so 'n wet vir die wysiging of herroeping van enige wetsbepaling, met inbegrip van 'n Wet van die Parlement, voorsiening te maak vir sover dit op so 'n aangeleentheid betrekking het en in die Transkei of op 'n burger van die Transkei, hetsy hy in of buite die Transkei is of woon, van toepassing is.

(2) Waar die Wetgewende Vergadering kragtens bedoelde Bylae gemagtig is om wette te maak wat in 'n gebied buite die Transkei of ten opsigte van burgers van die Transkei wat buite die Transkei maar binne die Republiek is of woon, van toepassing is, geld so 'n wet en kan dit bepalings bevat vir die behoorlike toepassing daarvan in bedoelde gebied of, na gelang van die geval, met betrekking tot so 'n burger in enige plek binne die Republiek ongeag waar hy hom ook al bevind of woon.

(3) Geen wet wat na die inwerkingtreding van hierdie Wet gemaak word (met inbegrip van 'n Wet van die Parlement of 'n Ordonnansie van 'n Provinsiale Raad, maar uitgesonderd 'n wet gemaak deur die Wetgewende Vergadering of 'n Wet of Ordonnansie in sub-paragraaf (ii) of (iii) van paragraaf (a) van sub-artikel (1) van artikel twee-en-veertig bedoel) en wat betrekking het op 'n in sub-artikel (1) bedoelde aangeleentheid, is in die Transkei of met betrekking tot 'n burger van die Transkei ten opsigte van wie die Wetgewende Vergadering bevoeg is om vir sover dit so 'n aangeleentheid betref wette te maak van toepassing nie.

38. Die wetgewende bevoegdheid ten opsigte van alle aangeleenthede wat nie in die Eerste Bylae by hierdie Wet genoem word nie, bly by die Parlement van die Republiek berus, maar die Staatspresident kan van tyd tot tyd met goedkeuring, by besluit, van die Senaat en die Volksraad by proklamasie in die Staatskoerant die Eerste Bylae wysig deur die toevoeging van verdere aangeleenthede (uitgesonderd dié in artikel nege-entertig vermeld) ten opsigte waarvan wetgewende bevoegdheid aan die Wetgewende Vergadering oorgedra word.

Uitbreiding van
bevoegdhede
van Wetgewende
Vergadering.

39. Die Wetgewende Vergadering is nie bevoeg om wette te maak met betrekking tot 'n onderwerp wat binne enige van onderstaande klasse aangeleenthede val nie, te wete—

Aangeleenthede
van wetgewende
bevoegdheid
van die Wet-
gewende
Vergadering
uitgesluit.

(a) die instelling, beheer, binnekoms, beweging of verrigtings van enige voltydse of deeltydse militêre eenheid, kwasi-militêre eenheid of organisasie van 'n militêre aard, of van enige eenheid, tak of diens van 'n militêre organisasie binne die Transkei of enige ander militêre aangeleentheid van watter aard ook al;

- (b) the registration, establishment and control of factories for the manufacture of arms, ammunition or explosives as defined in the Explosives Act, 1956 (Act No. 26 of 1956);
- (c) the appointment, accrediting and recognition of diplomatic and consular officers and the negotiation, conclusion or ratification of international conventions, treaties and agreements;
- (d) the control, organization, administration, powers, entry into and presence in the Transkei of any Police Force of the Republic charged with the maintenance of public peace and order and the preservation of internal security in and the safety of the Transkei and the Republic;
- (e) postal, telegraph, telephone, radio and television services;
- (f) railways, harbours, national roads and civil aviation;
- (g) the entry of persons other than Transkeian citizens into the Transkei;
- (h) currency, public loans, banking and the control of stock exchanges and of financial institutions as defined in section one of the Inspection of Financial Institutions Act, 1962 (Act No. 68 of 1962);
- (i) customs and excise duties and the control and management of customs and excise;
- (j) the amendment, repeal or substitution of this Act.

Assent to Laws.

40. (1) Every bill passed by the Legislative Assembly shall forthwith, after having been passed, together with such explanatory observations as may be necessary to indicate the scope, effect and reasons for the passing thereof, be submitted through the office of the Commissioner-General to the Minister of Bantu Administration and Development for presentation to the State President for his assent.

(2) (a) The State President may on the presentation to him of a bill declare that he assents thereto or refer it back to the Legislative Assembly for further consideration in the light of such further information and advice as may be given.

(b) Where a bill is assented to by the State President one copy of the bill shall be signed by him.

(3) A return indicating that a bill has been referred back for further consideration shall within a period of seven days after it is received by the Secretary of the Assembly, if the Assembly is then in session, or, if the Assembly is not then in session, within a period of seven days from the date of the opening of the next session of the Assembly be laid upon the table of the Legislative Assembly together with such advice and information as may have been given by the State President.

Promulgation and date of coming into operation of laws.

41. (1) The Secretary of the Legislative Assembly shall cause every law to which assent has been given to be published in the *Gazette*.

(2) A law shall come into operation on the date of its publication in the *Gazette*, unless the law itself provides that it shall come into operation on another date or on a date to be fixed by notice thereunder.

(3) A law assented to by the State President and promulgated by the Secretary of the Legislative Assembly shall, subject to the provisions of this Act, have the force of law.

Signature and enrolment of laws.

42. (1) As soon as possible after a law has been assented to by the State President the Secretary of the Legislative Assembly shall cause fair copies of the law in each of the three official languages of the Transkei to be enrolled of record in the office of the registrar of the Supreme Court having original jurisdiction in the Transkei at the time.

(2) Such copies shall be conclusive evidence of the provisions of the law and in the case of conflict between the copies thus enrolled the copy signed by the State President shall prevail.

(3) The validity or coming into operation of any law shall not be affected by failure to cause copies so to be enrolled.

- (b) die registrasie, oprigting en beheer van fabrieke vir die vervaardiging van wapens, ammunisie of ontplofbare stowwe soos in die Wet op Ontplofbare Stowwe, 1956 (Wet No. 26 van 1956), omskryf;
- (c) die aanstelling, akkreditering en erkenning van diplomatieke en konsulêre beamptes en onderhandelings in verband met en die voltrekking of bekragtiging van internasionale konvensies, verdrae en ooreenkomste;
- (d) die beheer, organisasie, administrasie, bevoegdhede, binnegaan van en teenwoordigheid in die Transkei van enige Polisiemag van die Republiek wat belas is met die handhawing van openbare vrede en orde en die behoud van die binnelandse veiligheid van die Transkei en die Republiek;
- (e) pos-, telegraaf-, telefoon-, radio- en televisiedienste;
- (f) spoorweë, hawens, nasionale paaie en burgerlike lugvaart;
- (g) die binnegaan van die Transkei deur ander persone as burgers van die Transkei;
- (h) valuta, openbare lenings, bankwese en die beheer van effektebeurse en van finansiële instellings soos in artikel een van die Wet op Inspeksie van Finansiële Instellings, 1962 (Wet No. 68 van 1962), omskryf;
- (i) doeane- en aksynsbelasting en die beheer en bestuur van doeane en aksyns;
- (j) die wysiging, herroeping of vervanging van hierdie Wet.

40. (1) Elke wetsontwerp deur die Wetgewende Vergadering aangeneem, moet onverwyld nadat dit aangeneem is, tesame met sodanige verduidelikende opmerkings as wat nodig mag wees om die omvang, uitwerking en redes vir die aanname daarvan aan te dui, deur die kantoor van die Kommissaris-generaal aan die Minister van Bantoe-administrasie en -ontwikkeling gestuur word om aan die Staatspresident vir sy toestemming voorgelê te word.

Toestemming tot wette.

- (2) (a) Die Staatspresident kan, wanneer 'n wetsontwerp aan hom voorgelê word, verklaar dat hy daarin toestem of dit na die Wetgewende Vergadering terugverwys vir verdere oorweging in die lig van sodanige verdere inligting en advies as wat gegee mag word.
- (b) Waar die Staatspresident sy toestemming tot 'n wetsontwerp verleen, word een eksemplaar van die wetsontwerp deur hom onderteken.
- (3) 'n Opgawe wat aandui dat 'n wetsontwerp vir verdere oorweging terugverwys is, word binne 'n tydperk van sewe dae na ontvangs daarvan deur die Sekretaris van die Vergadering, indien die Vergadering dan in sessie is, of, as die Vergadering dan nie in sessie is nie, binne 'n tydperk van sewe dae na die aanvangsdatum van die volgende sessie van die Vergadering, in die Wetgewende Vergadering ter tafel gelê saam met sodanige advies en inligting as wat die Staatspresident mag gegee het.

41. (1) Die Sekretaris van die Wetgewende Vergadering laat elke wet ten opsigte waarvan toestemming verleen is, in die Staatskoerant afkondig.

Afkondiging en datum van inwerkingtreding van wette.

(2) 'n Wet tree in werking op die datum waarop dit in die Staatskoerant afgekondig word, tensy die wet self bepaal dat dit op 'n ander datum of op 'n datum wat by kennisgewing daarkragtens bepaal moet word, in werking tree.

(3) 'n Wet waarin die Staatspresident toegestem het en wat deur die Sekretaris van die Wetgewende Vergadering afgekondig is, het regsrag onderworpe aan die bepalings van hierdie Wet.

42. (1) So spoedig moontlik nadat die Staatspresident toestemming tot 'n wet verleen het, laat die Sekretaris van die Wetgewende Vergadering skoon eksemplare van die wet, in elk van die drie amptelike tale van die Transkei, in die register van die kantoor van die griffier van die Hooggeregshof wat dan oorspronklike regsbevoegdheid in die Transkei besit, opneem.

Ondertekening en registrasie van wette.

(2) Bedoelde eksemplare is afdoende bewys van die bepalings van die wet, en in geval van verskil tussen die eksemplare aldus opgeneem, gee die eksemplaar wat deur die Staatspresident onderteken is die deurslag.

(3) Die regsgeldigheid of inwerkingtreding van 'n wet word nie geraak deur versuim om eksemplare aldus te laat opneem nie.

PART VI.

CHIEFTAINSHIP AND INFERIOR ADMINISTRATIVE BODIES.

Duties, powers, authorities and functions of paramount chiefs, chiefs and headmen to remain in force.

Paramount chiefs to retain personal status.

Designation of paramount chiefs and chiefs.

Powers, authorities and functions of tribal, community, district and regional authorities to remain in force.

Disestablishment of Transkeian Territorial Authority.

43. Notwithstanding anything in this Act contained all duties, powers, authorities and functions lawfully exercised by paramount chiefs, chiefs and headmen at the date on which the first Cabinet of the Transkei is constituted shall be and remain in force until varied or withdrawn by the competent authority.

44. Until such time as the State President otherwise approves the paramount chiefs in the Transkei shall continue to enjoy the personal status they have hitherto enjoyed and shall with regard to ceremonial matters and at ceremonial occasions within their respective regions take precedence over Ministers, including the Chief Minister, except in respect of matters or occasions connected with the business of the Legislative Assembly.

45. (1) After the constitution of the first Cabinet of the Transkei the function of designating paramount chiefs, chiefs and acting chiefs in respect of any region according to Bantu law and custom shall, subject to the provisions of sub-section (2), vest in the regional authority concerned subject to confirmation by the State President who may in his discretion confirm any such designation or refer it back to the regional authority concerned for further consideration.

(2) The creation of any new paramount chieftainship or chieftainship shall not be confirmed by the State President except after consideration of a recommendation of the Legislative Assembly.

46. Notwithstanding anything in this Act contained all powers, authorities and functions lawfully exercised by Bantu tribal, community, district or regional authorities established by virtue of the provisions of Proclamation No. 180 of 1956 at the date on which the first Cabinet of the Transkei is constituted shall be and remain in force until varied or withdrawn by the Legislative Assembly.

47. (1) The Transkeian Territorial Authority established by virtue of Proclamation No. 180 of 1956 shall be disestablished from the date of the constitution of the first Cabinet in terms of this Act, and—

- (a) all its rights, assets, liabilities and obligations shall upon the said date become the rights, assets, liabilities and obligations of the Government of the Transkei;
- (b) all the property, movable and immovable, of the said Territorial Authority shall upon the said date vest without payment of transfer duty, stamp duty or any other fee or charge in the Government of the Transkei, but subject to any existing charge, obligation or trust on or over such property or otherwise lawfully affecting the same;
- (c) the Registrar of Deeds concerned shall upon production to him of the title deed to any immovable property referred to in paragraph (b) endorse such title deed to the effect that the immovable property therein described is vested in the Government of the Transkei and make the necessary entries in his registers, and thereupon the said title deed shall serve and avail as the title deed of the Government of the Transkei to the said property;
- (d) any rights to the occupation of land granted to the said Territorial Authority by means of a certificate of occupation, permission to occupy, agreement of lease or other document shall, as from the said date and subject to the conditions thereof, be deemed to have been granted to the Government of the Transkei.

(2) The funds appropriated or which may be appropriated by the said Territorial Authority for the financial year during which it is disestablished shall, in respect of payments made on or after the said date of disestablishment, be deemed to have been appropriated for the same purpose by the Legislative Assembly.

PART VII.

ADMINISTRATION OF JUSTICE.

Existing courts to continue.

48. (1) Notwithstanding anything in this Act contained every lawfully constituted court having jurisdiction to hear criminal or civil cases of whatever nature or scope or having power of review or of hearing appeals from inferior courts in any or all of the districts mentioned in section two of this Act

DEEL VI.

KAPTEINSKAP EN ONDERGESKIKTE ADMINISTRATIEWE LIGGAME.

43. Ondanks die bepalings van hierdie Wet, bly alle pligte, bevoegdhede, gesag en werksaamhede wat op die datum waarop die eerste Kabinet van die Transkei saamgestel word wettiglik deur hoofkapteins, kapteins en hoofmanne uitgeoefen word, van krag totdat dit deur die bevoegde gesag verander of ingetrek word.

Pligte, bevoegdhede, gesag en werksaamhede van hoofkapteins, kapteins en hoofmanne bly van krag.

44. Tot tyd en wyl die Staatspresident anders goedkeur, geniet die hoofkapteins in die Transkei die persoonlike status wat hulle tot nog toe geniet het, en het hulle ten opsigte van seremoniële aangeleenthede en by seremoniële geleenthede voorrang bo Ministers, met inbegrip van die Hoofminister, binne hul onderskeie streke, behalwe ten opsigte van aangeleenthede of geleenthede in verband met die werksaamhede van die Wetgewende Vergadering.

Hoofkapteins behou persoonlike status.

45. (1) Na die samestelling van die eerste Kabinet van die Transkei berus die aanwysing ingevolge Bantoereg en -gewoontes van hoofkapteins, kapteins en waarnemende kapteins ten opsigte van enige streek, behoudens die bepalings van sub-artikel (2), by die betrokke streeksowerheid, maar onderworpe aan bekragtiging deur die Staatspresident, wat na goeë dunske so 'n aanwysing kan bekragtig of dit vir verdere oorweging na die betrokke streeksowerheid kan terugwys.

Aanwysing van hoofkapteins en kapteins.

(2) Die skepping van 'n nuwe hoofkapteinskap of kapteinskap word nie deur die Staatspresident bekragtig nie behalwe na oorweging van 'n aanbeveling van die Wetgewende Vergadering.

46. Ondanks die bepalings van hierdie Wet is en bly die bevoegdhede, gesag en werksaamhede wat wettiglik deur Bantoestam-, gemeenskaps-, distriks- of streeksowerhede ingestel kragtens die bepalings van Proklamasie No. 180 van 1956 uitgeoefen word op die datum van die samestelling van die Transkei se eerste Kabinet, van krag totdat dit deur die Wetgewende Vergadering verander of ingetrek word.

Bevoegdhede, gesag en werksaamhede van stam-, gemeenskaps-, distriks- en streeksowerhede bly van krag.

47. (1) Die Transkeise Gebiedsowerheid ingestel kragtens Proklamasie No. 180 van 1956 word ontbind vanaf die datum waarop die eerste Kabinet ooreenkomstig hierdie Wet ingestel word, en—

Ontbinding van Transkeise Gebiedsowerheid.

(a) al sy regte, bates, laste en verpligtings word op bedoelde datum die regte, bates, laste en verpligtings van die Regering van die Transkei;

(b) alle eiendom, roerend en onroerend, van bedoelde Gebiedsowerheid berus op genoemde datum sonder betaling van oordraggelde, seëlregte of ander gelde of koste, maar onderworpe aan enige bestaande las, verpligting of trust op of oor sodanige eiendom of wat dit andersins wettiglik raak, by die Regering van die Transkei;

(c) die betrokke Registrateur van Aktes moet die titelbewys van onroerende goed in paragraaf (b) bedoel by oorlegging aan hom endosseer ten effekte dat die onroerende goed daarin beskryf by die Regering van die Transkei berus, en in sy registers die nodige inskrywings doen, en daarop dien en geld bedoelde titelbewys as die titelbewys van die Regering van die Transkei ten opsigte van bedoelde eiendom;

(d) enige reg tot die okkupasie van grond wat aan bedoelde Gebiedsowerheid verleen is deur middel van 'n sertifikaat van okkupasie, toestemming om te okkupeer, huurooreenkoms of ander dokument, word vanaf bedoelde datum en behoudens die voorwaardes daarvan geag aan die Regering van die Transkei verleen te wees.

(2) Die fondse wat deur genoemde Gebiedsowerheid vir die boekjaar waarin dit ontbind word, bewillig is of word, word, ten opsigte van betalings op of na genoemde datum van ontbinding gemaak, geag vir dieselfde doel deur die Wetgewende Vergadering bewillig te wees.

DEEL VII.

DIE REGSPLEGING.

48. (1) Ondanks die bepalings van hierdie Wet bly elke wettiglik saamgestelde hof wat op die datum waarop die eerste Kabinet van die Transkei saamgestel word, in enige van of al die distrikte in artikel twee van hierdie Wet genoem, bevoeg is om

Bestaande hofe bly voortbestaan.

on the date on which the first Cabinet of the Transkei is constituted shall be and remain functioning in accordance with its existing constitution and jurisdiction until altered or disestablished by the authority having power to do so.

(2) The power conferred on a Minister or on any officer of the Republic in terms of the provisions of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), or the Native Administration Act, 1927 (Act No. 38 of 1927), to establish or disestablish a magistrate's court or a Bantu affairs commissioner's court or to appoint any judicial officer thereto in any of the districts mentioned in section *two* shall vest in the Minister of Justice of the Transkei or, as the case may be, in the corresponding officer of the Transkei: Provided that no such court shall be established or disestablished and no such judicial officer shall be appointed by such Minister or by any such officer in any area not falling within the Transkei without the approval of the Minister of Bantu Administration and Development.

(3) The State President may by proclamation in the *Gazette* provide that any magistrate's court established in terms of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), or any Bantu affairs commissioner's court established in terms of the Native Administration Act, 1927 (Act No. 38 of 1927), in any of the districts mentioned in section *two* shall as from the date mentioned in such proclamation be transferred to the Government of the Transkei.

(4) Nothing in this section contained shall be construed as preventing any Minister or officer of the Republic from establishing or disestablishing a magistrate's court in terms of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), or a Bantu affairs commissioner's court in terms of the Native Administration Act, 1927 (Act No. 38 of 1927), in any of the districts mentioned in section *two* for the trial or hearing of cases of persons or between parties who are not citizens or any of whom is not a citizen of the Transkei or for any area not falling within the Transkei and any such court may notwithstanding anything contained in either of the said Acts be established in respect of any number of such areas whether or not constituting a single area.

(5) The jurisdiction of any court transferred to the Government of the Transkei in terms of sub-section (3) or established by any Minister or officer of the Transkei in terms of sub-section (2) or in terms of any law of the Legislative Assembly shall in respect of persons and area be limited to the extent for which provision has been made in terms of sub-section (4).

Courts established in terms of any law of the Legislative Assembly and matters incidental thereto.

49. (1) (a) The jurisdiction, powers, duties and functions of any inferior court established by the competent authority in the Transkei in terms of any law made by the Legislative Assembly in pursuance of the powers conferred upon it by virtue of the provisions of this Act, or of any judicial officer appointed thereto, shall not exceed the jurisdiction, powers, duties and functions in respect of the area for which it has been established of a magistrate's court established under the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), or, as the case may be, a magistrate appointed under that Act in respect of such a magistrate's court, and any proceedings in any such inferior court or before any such judicial officer, including proceedings in connection with any law made by the Assembly, shall for the purposes of any law in force in the Republic be deemed to be proceedings in such a magistrate's court or, as the case may be, before such a magistrate: Provided that the Attorney-General of the Eastern Cape Division of the Supreme Court of South Africa may in any particular case direct that proceedings be instituted in or, if already commenced, be transferred to any other court, whether within or outside the Transkei, and thereupon the provisions of any applicable law shall *mutatis mutandis* apply as if the direction had been given under sub-section (5)*bis* of section *fifty-nine* of the Criminal Procedure Act, 1955 (Act No. 56 of 1955).

(b) Any law made by the Legislative Assembly in respect of inferior courts may, subject to the provisions of sub-section (4) of section *forty-eight*, provide for the amendment or repeal of the Magistrates' Courts Act, 1944, or the provisions of the Native Administration Act, 1927, relating to courts in so far as the said Act

straf- of siviele sake van welke aard of omvang ook al te verhoor of met betrekking tot laerhowe hersieningsbevoegdheid of die bevoegdheid om appèlle te verhoor, besit, voortbestaan en in werking in ooreenstemming met sy bestaande samestelling en jurisdiksie totdat dit deur die daartoe bevoegde gesag verander of ontbind word.

(2) Die bevoegdheid kragtens die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), of die Naturelle-administrasie Wet, 1927 (Wet No. 38 van 1927), aan 'n Minister of aan 'n beamppte van die Republiek verleen om 'n landdroshof of 'n Bantoesake-kommissarishof in te stel of af te skaf of om 'n regterlike beamppte daarvoor aan te stel in 'n distrik in artikel twee vermeld, berus by die Transkei se Minister van Justisie of, na gelang van die geval, by die ooreenstemmende beamppte in die Transkei: Met dien verstande dat so 'n hof nie deur bedoelde Minister of so 'n beamppte ingestel of afgeskaf word en so 'n regterlike beamppte nie deur hom aangestel word in 'n gebied wat nie binne die Transkei val nie behalwe met goedkeuring van die Minister van Bantoe-administrasie en -ontwikkeling.

(3) Die Staatspresident kan by proklamasie in die *Staatskoerant* bepaal dat 'n landdroshof ingestel ingevolge die bepalings van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), of 'n Bantoesakekommissarishof ingestel ingevolge die bepalings van die Naturelle-administrasie Wet, 1927 (Wet No. 38 van 1927), in 'n in artikel twee bedoelde distrik, vanaf 'n datum in die proklamasie vermeld aan die Regering van die Transkei oorgedra word.

(4) Die bepalings van hierdie artikel word nie uitgelê as sou dit 'n Minister of beamppte van die Republiek verhoed om 'n landdroshof ingevolge die bepalings van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), of 'n Bantoesakekommissarishof ingevolge die bepalings van die Naturelle-administrasie Wet, 1927 (Wet No. 38 van 1927), in 'n in artikel twee vermelde distrik vir die verhoor van sake van persone of tussen partye wat nie burgers van die Transkei is nie of van wie een nie 'n burger van die Transkei is nie of vir 'n gebied wat nie binne die Transkei val, aan te stel of af te skaf nie, en so 'n hof kan ondanks enigiets in enigeen van bedoelde wette vervat, ten opsigte van enige getal van bedoelde gebiede ingestel word ongeag of dit 'n enkele gebied uitmaak al dan nie.

(5) Die jurisdiksie van enige hof ingevolge sub-artikel (3) aan die Regering van die Transkei oorgedra of ingevolge sub-artikel (2) of ingevolge 'n wet van die Wetgewende Vergadering deur 'n Minister of beamppte van die Transkei ingestel, is wat betref persone en gebied beperk in die mate waarvoor daar ingevolge sub-artikel (4) voorsiening gemaak is.

49. (1) (a) Die jurisdiksie, bevoegdhede, pligte en werksaamhede van 'n laerhof ingestel deur die bevoegde gesag in die Transkei ingevolge 'n wet deur die Wetgewende Vergadering gemaak uit hoofde van bevoegdhede kragtens die bepalings van hierdie Wet aan hom verleen, of van 'n regterlike beamppte daarvoor aangestel, oorskry nie die jurisdiksie, bevoegdhede, pligte en werksaamhede, ten opsigte van die gebied waarvoor dit ingestel is, van 'n landdroshof ingestel kragtens die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), of, na gelang van die geval, 'n landdroshof ingevolge daardie Wet ten opsigte van so 'n landdroshof aangestel nie, en enige verrigtings in so 'n laerhof of voor so 'n regterlike beamppte, met inbegrip van verrigtings ten opsigte van 'n wet deur die Vergadering gemaak, word vir die doeleindes van enige wetsbepalings van krag in die Republiek geag verrigtings in so 'n landdroshof of, na gelang van die geval, voor so 'n landdroshof te wees: Met dien verstande dat die Prokureur-generaal van die Oos-Kaapse Afdeling van die Hooggeregshof van Suid-Afrika in 'n bepaalde geval kan gelas dat verrigtings ingestel word in, of, indien reeds ingestel, oorgeplaas word na enige ander hof, hetsy in of buite die Transkei, en daarop geld enige toepaslike wetsbepalings *mutatis mutandis* asof die lasgewing kragtens sub-artikel (5) *bis* van artikel nege-en-veertig van die Strafbepalingswet, 1955 (Wet No. 56 van 1955), geskied het.
- (b) Enige wet ten opsigte van laerhowe deur die Wetgewende Vergadering gemaak kan, behoudens die bepalings van sub-artikel (4) van artikel agt-en-veertig, voorsiening maak vir die wysiging of herroeping van die Wet op Landdroshowe, 1944, of die bepalings van die Naturelle-administrasie Wet, 1927, met betrekking tot

Howe ingestel ingevolge enige wet van die Wetgewende Vergadering en aangeleenthede wat daarmee in verband staan.

or the said provisions apply in the districts mentioned in section *two* of this Act.

(2) Any proceedings under any law made by the Legislative Assembly may, in so far as such law applies to citizens of the Transkei who are resident outside the Transkei but within the Republic, be instituted against any such citizen in any competent court having jurisdiction in the area within which such citizen may be or may be resident.

(3) Any amount recovered by the Government of the Republic or of the Transkei in pursuance of proceedings before any inferior court referred to in sub-section (1) or before any other court by virtue of the provisions of sub-section (2), not being an amount paid by way of any criminal penalty imposed in such proceedings, shall be paid—

(a) in the case of an amount recovered in proceedings in connection with any law made by the Legislative Assembly or in respect of any revenue accruing to the Transkeian Revenue Fund, into the Transkeian Revenue Fund; and

(b) in any other case, into the Consolidated Revenue Fund, and any amount so recovered by way of any criminal penalty imposed shall be paid, if the proceedings were heard before any inferior court transferred to or established by the Government of the Transkei in terms of section *forty-eight* or in terms of any law of the Legislative Assembly, into the Transkeian Revenue Fund, and in any other case into the Consolidated Revenue Fund.

State President
may constitute
High Court for
the Transkei by
Proclamation.

50. (1) The State President may as soon as practicable after the constitution of the first Cabinet of the Transkei constitute a High Court for the Transkei to replace any provincial or local division of the Supreme Court of South Africa and any Bantu appeal court or Bantu divorce court having jurisdiction in or over any or all of the districts mentioned in section *two*, and may make regulations regulating—

(a) the constitution of the High Court;

(b) the appointment, remuneration and tenure of office of judges;

(c) the area of the Court's jurisdiction;

(d) the persons over whom and matters in relation to which the Court shall have jurisdiction;

(e) the Court's powers of review and of hearing appeals;

(f) the appointment, powers and duties of an Attorney-General and other officers of the Court, the records to be kept and the practice and procedure in the Court; and

(g) generally, all such other matters as may be deemed necessary to be regulated for or in connection with the constitution and functioning of the Court.

(2) The status, powers and jurisdiction of the High Court for the Transkei shall as far as is practicable be in accordance with that of a provincial or local division of the Supreme Court of South Africa: Provided that—

(a) the Court shall in its area of jurisdiction also have and exercise jurisdiction in respect of those divorce cases and appeals which were previously heard by Bantu divorce and Bantu appeal courts; and

(b) in all suits or proceedings between parties involving or based on questions of Bantu custom the Court shall apply the Bantu law applicable to such custom as far as is practicable in deciding such question, except where such custom is opposed to the principles of public policy or natural justice: Provided that it shall not be lawful for the Court to declare that the custom of lobola or bogadi or any similar custom is repugnant to such principles.

(3) The Appellate Division of the Supreme Court of South Africa shall have the same jurisdiction to hear and determine appeals from any decision of the High Court for the Transkei as it has in respect of any decisions of the courts of any provincial or local division of the Supreme Court, and the provisions of any law or rules of court applicable in connection with any appeal from the decision of any such provincial or local division shall *mutatis mutandis* apply with reference to any appeal from a decision of the said High Court.

PART VIII.

FINANCE.

Transkeian
Revenue Fund.

51. There shall be a Transkeian Revenue Fund into which shall be paid all revenue raised by or accruing to the Government of the Transkei.

howe, vir sover bedoelde Wet of bedoelde bepalings in die in artikel *twee* van hierdie Wet genoemde distrikte geld.

(2) Enige verrigtings kragtens 'n wet deur die Wetgewende Vergadering gemaak, kan vir sover daardie wet van toepassing is op burgers van die Transkei wat buite die Transkei maar binne die Republiek woon, teen so 'n burger ingestel word in enige bevoegde hof wat regsbevoeg is in die gebied waarin bedoelde burger is of woon.

(3) Enige bedrag deur die Regering van die Republiek of van die Transkei verhaal ingevolge verrigtings voor 'n laerhof in sub-artikel (1) bedoel of voor 'n ander hof ingevolge die bepalings van sub-artikel (2), behalwe 'n bedrag betaal by wyse van 'n kriminele boete in die verrigtings opgelê, word gestort—

(a) in die geval van 'n bedrag verhaal in verrigtings in verband met 'n wet deur die Wetgewende Vergadering gemaak of ten opsigte van inkomste wat die Transkeise Inkomstefonds toeval, in die Transkeise Inkomstefonds; en

(b) in enige ander geval, in die Gekonsolideerde Inkomstefonds,

en enige bedrag aldus verhaal by wyse van 'n kriminele boete opgelê, word, indien die verrigtings plaasgevind het voor 'n laerhof wat kragtens artikel *agt-en-veertig* of kragtens 'n wet van die Wetgewende Vergadering ingestel of oorgedra is, in die Transkeise Inkomstefonds, en in enige ander geval in die Gekonsolideerde Inkomstefonds gestort.

50. (1) Die Staatspresident kan so spoedig doenlik na die samestelling van die Transkei se eerste Kabinet, 'n Hoërhof vir die Transkei instel ter vervanging van enige provinsiale of plaaslike afdeling van die Hooggeregshof van Suid-Afrika en enige Bantoe-appèlhof of Bantoe-egskeidingshof wat in of oor enige van of al die in artikel *twee* vermelde distrikte regsbevoegdheid besit, en kan regulasies uitvaardig vir die reëling van—

Staatspresident kan by proklamasie 'n Hoërhof vir Transkei instel.

(a) die samestelling van die Hoërhof;

(b) die aanstelling, besoldiging en ampsduur van regters;

(c) die gebied waarin die Hof regsbevoegdheid besit;

(d) die persone oor wie en die aangeleenthede in verband waarmee die Hof regsbevoegdheid besit;

(e) die Hof se bevoegdheid in verband met hersiening en die verhoor van appèlle;

(f) die aanstelling, bevoegdhede en pligte van 'n Prokureur-generaal en ander beamptes van die Hof, die aantekeninge wat gehou moet word en die praktyk en prosedure van die Hof; en

(g) in die algemeen, die ander aangeleenthede waarvan die reëling vir of in verband met die samestelling of funksionering van die Hof nodig blyk.

(2) Die status, bevoegdhede en regsbevoegdheid van die Hoërhof van die Transkei is sover doenlik in ooreenstemming met dié van 'n provinsiale of plaaslike afdeling van die Hooggeregshof van Suid-Afrika: Met dien verstande dat—

(a) die Hof binne sy regsgebied ook ten opsigte van dié egskedingsake en appèlle wat voorheen deur die Bantoe-egskedings- en Bantoe-appèlhowe verhoor is, regsbevoegdheid besit en uitoefen; en

(b) in alle regsdinge of verrigtings tussen partye waarby Bantoegebruike betrokke is of wat daarop berus, die Hof sover doenlik die toepaslike Bantoeereg toepas wat in verband met dié gebruik geld, behalwe waar so 'n gebruik met die beginsels van openbare beleid of natuurlike reg strydig is: Met dien verstande dat die Hof nie die gebruik van lobola of bogadi of enige ander dergelike gebruik met bedoelde beginsels in stryd verklaar nie.

(3) Die Appèlafdeling van die Hooggeregshof van Suid-Afrika het dieselfde regsbevoegdheid om appèlle teen beslissings van die Hoërhof van die Transkei te verhoor en daaroor te beslis as wat hy ten opsigte van beslissings van die hof van provinsiale of plaaslike afdelings van die Hooggeregshof het, en enige wetsbepalings of hofreëls wat ten opsigte van 'n appèl teen 'n beslissing van so 'n provinsiale of plaaslike afdeling van toepassing is, geld *mutatis mutandis* met betrekking tot 'n appèl teen 'n beslissing van bedoelde Hoërhof.

DEEL VIII.

FINANSIES.

51. Daar is 'n Transkeise Inkomstefonds, waarin alle inkomste wat deur die Regering van die Transkei gehef word of aan hom toeval, gestort word.

Transkeise Inkomstefonds.

Revenue to be
paid into
Transkeian
Revenue Fund.

52. (1) As from a date to be determined by the Minister of Bantu Administration and Development and published in the *Gazette* there shall be paid into the Transkeian Revenue Fund—

(a) all monies payable—

- (i) by any citizen of the Transkei in respect of taxes, levies and rates imposed in terms of the Native Taxation and Development Act, 1925 (Act No. 41 of 1925), the Native Trust and Land Act, 1936 (Act No. 18 of 1936), Proclamation No. 227 of 1898, of the Cape of Good Hope, Proclamation No. 241 of 1911 and Proclamation No. 180 of 1956, or any taxes, levies or rates imposed by or under any law of the Legislative Assembly;
- (ii) in terms of any Act of Parliament imposing any tax on incomes, profits or gains or any Ordinance of the province of the Cape of Good Hope imposing any tax on persons or on incomes of persons (whether such Act or Ordinance, as the case may be, has been or is passed before or after the commencement of this Act), by any citizen of the Transkei who is ordinarily resident in the Transkei or by any company which is recognized as a private company in terms of the relevant Act or Ordinance and is managed and controlled in the Transkei and in which Bantu persons have a controlling interest;
- (iii) in terms of any Act of Parliament imposing an estate or succession duty (whether such Act has been or is passed before or after the commencement of this Act), in respect of the estate of any citizen of the Transkei who at the time of his death was ordinarily resident in the Transkei;

(b) all revenue and income, including licence fees, taxes, fees of office, fines, forfeitures, rents and other moneys deriving from or through the administration of those matters in respect of which the Legislative Assembly may make laws in terms of this Act, or any other additional sources of revenue which may specifically be included in the First Schedule to this Act;

(c) an annual grant to be paid from the Consolidated Revenue Fund, of an amount approved by the Minister of Finance of the Republic after consultation with the Controller and Auditor-General and corresponding to the expenditure by the Government of the Republic in respect of any matter the administration of which is in accordance with this Act transferred to the Government of the Transkei during the financial year preceding the date of the transfer, less—

- (i) the income from existing sources of revenue as determined by the Minister of Bantu Administration and Development in consultation with the Minister of Finance of the Republic which accrued to the Consolidated Revenue Fund during the said financial year and which will in terms of paragraphs (a) and (b) accrue to the Transkeian Revenue Fund;
- (ii) the salaries, allowances and pension contributions payable by the Government of the Republic to or in respect of officials of the Republic serving in the Transkei in terms of section *sixty-three*;

(d) such an additional sum of money as may be appropriated by Parliament for payment out of the Consolidated Revenue Fund to the Transkeian Revenue Fund for the due performance of the services and duties assigned to the Government of the Transkei in terms of this Act.

(2) In respect of the period between the date of the constitution of the first Cabinet of the Transkei and the date determined under sub-section (1), all expenditure in respect of those departments and matters in relation to which the Legislative Assembly is in terms of section *thirty-seven* empowered to legislate shall be met from the source from which it would have been met had this Act not been passed.

(3) For the purposes of this section "controlling interest" in relation to a private company means—

- (a) shares of a value in excess of half the aggregate value of all the shares in the company; or

52. (1) Vanaf 'n datum wat die Minister van Bantoe-administrasie en -ontwikkeling bepaal en in die *Staatskoerant* afgekondig word, word daar in die Transkeise Inkomstefonds inbetaal—

Inkomste wat in die Transkeise Inkomstefonds inbetaal moet word.

(a) alle gelde betaalbaar—

- (i) deur enige burger van die Transkei ten opsigte van belasting, heffings en gelde opgelê ingevolge die Naturelle Belasting en Ontwikkeling Wet, 1925 (Wet No. 41 van 1925), die Naturelletrust en -grond Wet, 1936 (Wet No. 18 van 1936), Proklamasie No. 227 van 1898 van die Kaap die Goeie Hoop, Proklamasie No. 241 van 1911 en Proklamasie No. 180 van 1956, of enige belastings, heffings of tariewe opgelê deur of kragtens 'n wet van die Wetgewende Vergadering;
 - (ii) ingevolge 'n Parlements wet wat 'n belasting op inkomstes, profyte of winste hef of 'n Ordonnansie van die provinsie die Kaap die Goeie Hoop wat 'n belasting op persone of op die inkomstes van persone hef (ongeaag of dié Wet of Ordonnansie, na gelang van die geval, voor of na die inwerking-treding van hierdie Wet aangeneem is of word), deur enige burger van die Transkei wat gewoonlik in die Transkei woon of deur 'n maatskappy wat ingevolge die betrokke Wet of Ordonnansie as 'n private maatskappy erken word en in die Transkei bestuur en beheer word en waarin Bantoe persone 'n beherende belang het;
 - (iii) ingevolge 'n Parlements wet wat 'n boedel- of suksessiebelasting hef (ongeaag of dié Wet voor of na die inwerking-treding van hierdie Wet aangeneem is of word), ten opsigte van die boedel van 'n burger van die Transkei wat ten tyde van sy dood gewoonlik in die Transkei woonagtig was;
- (b) alle inkomste, met inbegrip van lisensiegelde, belastings, kantoor gelde, boetes, verbeurings, huurgelde en ander gelde verkry uit of in die loop van die administrasie van die aangeleenthede ten opsigte waarvan die Wetgewende Vergadering ingevolge hierdie Wet wette kan maak, of enige ander bykomende bronne van inkomste wat uitdruklik in die Eerste Bylae by hierdie Wet ingesluit is;
- (c) 'n jaarlikse toekenning, betaalbaar uit die Gekonsolideerde Inkomstefonds, van 'n bedrag wat deur die Minister van Finansies van die Republiek, na oorlegpleging met die Kontroleur en Ouditeur-generaal, goedgekeur en in ooreenstemming is met die uitgawe deur die Regering van die Republiek ten opsigte van enige aangeleentheid waarvan die administrasie ooreenkomstig hierdie Wet aan die Regering van die Transkei oorgedra word gedurende die boekjaar wat die datum van die oordrag voorafgaan, min—
- (i) die inkomste uit bestaande bronne van inkomste, soos bepaal deur die Minister van Bantoe-administrasie en -ontwikkeling in oorleg met die Minister van Finansies van die Republiek, wat gedurende bedoelde boekjaar aan die Gekonsolideerde Inkomstefonds toegeval het en wat ingevolge paragrawe (a) en (b) aan die Transkeise Inkomstefonds sal toeval;
 - (ii) die salarisse, toelaes en pensioenbydraes deur die Regering van die Republiek betaalbaar aan of ten opsigte van beamptes van die Republiek wat ingevolge artikel drie-en-sestig in die Transkei dien;
- (d) so 'n addisionele bedrag as wat volgens bewilliging deur die Parlement uit die Gekonsolideerde Inkomstefonds aan die Transkeise Inkomstefonds betaal moet word vir die behoorlike uitvoering van dienste en pligte ingevolge die bepalinge van hierdie Wet aan die Regering van die Transkei toegewys.
- (2) Ten opsigte van die tydperk tussen die datum van samestelling van die eerste Kabinet van die Transkei en die datum ingevolge sub-artikel (1) bepaal, word alle uitgawes ten opsigte van die departemente en aangeleenthede ten opsigte waarvan die Wetgewende Vergadering ingevolge artikel sewe-en-dertig gemagtig is om wette te maak, gedek uit die bron waaruit dit gedek sou gewees het as hierdie Wet nie aangeneem was nie.
- (3) By die toepassing van hierdie artikel beteken „beherende belang”, met betrekking tot 'n private maatskappy—
- (a) aandeel ter waarde van meer as die helfte van die gesamentlike waarde van al die aandeel in die maatskappy; of

- (b) shares entitling the holders thereof to more than half of its profits or assets; or
- (c) shares entitling the holders thereof to a majority or preponderance of votes.

Transkeian Revenue Fund to be appropriated by Legislative Assembly.

53. The Transkeian Revenue Fund shall be appropriated by the Legislative Assembly for the administration of the Transkei generally or, in the case of moneys paid over by the Government of the Republic for particular purposes, then for such purposes, in the manner prescribed by this Act, but the Legislative Assembly shall not originate or pass any vote, resolution, motion or bill for the appropriation of any part of the Transkeian Revenue Fund or for the imposition of any tax or impost for any purpose unless the Minister of Finance of the Transkei has recommended to the Assembly that provision be made for the specific purpose for which the appropriation is required.

Requirements for withdrawal of monies from Transkeian Revenue Fund.

54. Save as is hereinafter provided no money shall be withdrawn from the Transkeian Revenue Fund except under appropriation made by law: Provided that until such appropriation has been made and for a period not exceeding two months after the end of a financial year moneys may be withdrawn from that fund without such appropriation in order to meet expenditure on services in respect of which there has been an appropriation up to the end of that financial year.

Minister of Finance may issue a special warrant under certain circumstances.

55. (1) The Minister of Finance of the Transkei may with the approval of the Cabinet by special warrant under his hand authorize the issue of moneys from the Transkeian Revenue Fund—

- (a) to defray unforeseen expenditure of a special character which is not provided for in an appropriation law and which cannot without serious injury to the public interest be postponed until adequate provision can be made therefor by the Legislative Assembly; or
- (b) to meet an excess on any head of expenditure in an appropriation law.

(2) The total sum which the said Minister may authorize under sub-section (1) shall not at any time exceed two hundred thousand rand, and the relative expenditure shall be submitted to the Legislative Assembly for appropriation at its next ensuing session.

Requirements for issue out of Revenue Fund.

56. No issue shall be made out of the Transkeian Revenue Fund except in pursuance of a warrant signed by the Minister of Finance of the Transkei, and no such warrant shall have effect unless it is countersigned by the Controller and Auditor-General or a person acting under his general or special authority.

Annual estimates of expenditure.

57. The annual estimates of expenditure for the Transkei shall be prepared by the Cabinet for submission to the Minister of Bantu Administration and Development who shall in consultation with the Minister of Finance of the Republic determine the contribution, if any, required to be appropriated by Parliament towards the expenditure of the Transkei for the ensuing financial year, and shall thereafter be submitted by the Minister of Finance of the Transkei to the Legislative Assembly for appropriation.

Auditing of accounts.

58. Unless and until otherwise provided for by the Legislative Assembly the Controller and Auditor-General of the Republic shall examine, enquire into and audit the accounts of the Transkeian Government, including those of all the inferior administrative bodies referred to in section *forty-six* and all other statutory bodies in the Transkei, as well as those of all accounting officers and all persons entrusted with the receipt, custody or issue of public moneys, stamps, securities or stores, and the provisions of the Exchequer and Audit Act, 1956 (Act No. 23 of 1956), and the orders, rules and regulations in terms of section *ten* or section *sixty-one* thereof shall govern the administration and control of the Transkeian Revenue Fund in so far as they can be applied and are not inconsistent with this Act: Provided that whenever in that Act or in any orders, rules or regulations thereunder the authority or approval of Parliament, the Treasury, a Minister or the Secretary of a Department or any official is prescribed as necessary for any act, or whenever any function is to be performed, the relevant provision shall be construed as referring to the Legislative Assembly or the appropriate Minister, secretary or official of the Transkei.

- (b) aandeel wat die aandeelhouders daarvan die reg gee op meer as die helfte van sy winste of bates; of
- (c) aandeel wat die aandeelhouders daarvan die reg gee op 'n meerderheid of oorwig van stemme.

53. Die Transkeise Inkomstefonds word deur die Wetgewende Vergadering vir die administrasie van die Transkei in die algemeen beskikbaar gestel, of, in die geval van gelde deur die Regering van die Republiek vir 'n besondere doel oorbetal, dan vir daardie doel, op die wyse by hierdie Wet voorgeskryf, maar geen begrotingspos, besluit, voorstel of wetsontwerp vir die beskikbaarstelling van enige deel van die Transkeise Inkomstefonds of vir die oplegging van 'n belasting of heffing vir watter doel ook al word in die Wetgewende Vergadering aanhangig gemaak of aangeneem nie tensy die Minister van Finansies van die Transkei by die Vergadering aanbeveel het dat voorsiening gemaak word vir die spesifieke doel waarvoor die beskikbaarstelling nodig is.

Betalings uit Transkeise Inkomstefonds moet deur Wetgewende Vergadering bewillig word.

54. Behalwe soos hieronder bepaal, word geen gelde uit die Transkeise Inkomstefonds onttrek nie, behalwe ingevolge 'n bewilliging volgens wet: Met dien verstande dat tot tyd en wyl so 'n bewilliging gemaak is en vir 'n tydperk van hoogstens twee maande na die einde van 'n boekjaar gelde sonder so 'n bewilliging uit daardie fonds onttrek kan word ten einde uitgawes aan dienste ten opsigte waarvan 'n bewilliging tot die einde van daardie boekjaar gemaak is, te dek.

Vereistes vir onttrekking van gelde uit die Transkeise Inkomstefonds.

55. (1) Die Transkeise Minister van Finansies kan met goedkeuring van die Kabinet by spesiale volmag deur hom onderteken die uitreiking van gelde uit die Transkeise Inkomstefonds magtig—

Minister van Finansies kan onder sekere omstandighede spesiale volmag uitreik.

- (a) om onvoorsiene uitgawes van besondere aard te dek waarvoor nie in 'n begrotingswet voorsiening gemaak is nie en wat nie sonder ernstige skade aan die publieke belang uitgestel kan word totdat toereikende voorsiening daarvoor deur die Wetgewende Vergadering gemaak kan word nie; of
- (b) om 'n oorskryding onder enige uitgawe-hoof in 'n begrotingswet te dek.

(2) Die totale bedrag wat bedoelde Minister kragtens subartikel (1) kan magtig, oorskry te gener tyd tweehonderdduisend rand nie, en die betrokke uitgawes moet by sy eersvolgende sessie aan die Wetgewende Vergadering vir bewilliging voorgelê word.

56. Geen uitreiking word uit die Transkeise Inkomstefonds gemaak nie behalwe ooreenkomstig 'n volmag deur die Minister van Finansies van die Transkei onderteken, en so 'n volmag is nie van krag tensy dit deur die Kontroleur en Ouditeur-generaal of iemand wat ingevolge sy algemene of spesiale magtiging optree, mede-onderteken is nie.

Vereistes vir uitreiking uit Inkomstefonds.

57. Die jaarlikse begroting van uitgawes vir die Transkei word deur die Kabinet opgestel vir voorlegging aan die Minister van Bantoe-administrasie en -ontwikkeling, wat in oorleg met die Minister van Finansies van die Republiek die bydrae, as daar is, bepaal wat ten opsigte van uitgawes van die Transkei vir die volgende boekjaar deur die Parlement bewillig moet word, en word daarna deur die Minister van Finansies van die Transkei aan die Wetgewende Vergadering vir bewilliging voorgelê.

Jaarlikse begroting van uitgawes.

58. Tensy en totdat die Wetgewende Vergadering anders bepaal, word die rekenings van die Transkeise Regering, met inbegrip van die rekenings van al die in artikel ses-en-veertig bedoelde ondergeskikte administratiewe liggame en van alle ander statutêre liggame in die Transkei, asook dié van alle rekenpligtige beamptes en van alle persone belas met die ontvangs, bewaring of besteding van openbare geld, seëls, sekuriteite of voorrade, deur die Kontroleur en Ouditeur-generaal van die Republiek ondersoek, nagegaan en geouditeer, en die bepalinge van die Skatkis- en Ouditwet, 1956 (Wet No. 23 van 1956), en die voorskrifte, reëls en regulasies ingevolge artikel tien of artikel een-en-sestig daarvan geld in verband met die administrasie en beheer van die Transkeise Inkomstefonds vir sover dit toegepas kan word en nie met hierdie Wet onbestaanbaar is nie: Met dien verstande dat waar in bedoelde Wet of in daarkragtens uitgevaardigde voorskrifte, reëls of regulasies die magtiging of goedkeuring van die Parlement, die Tesourie, 'n Minister of die Sekretaris van 'n Departement of 'n beampte voorgeskryf word as 'n vereiste vir enige handeling, of wanneer enige werkzaamheid verrig moet word, die betrokke bepaling uitgelê word asof dit na die Wetgewende Vergadering of die gepaste Minister, Sekretaris of beampte van die Transkei verwys.

Ouditering van rekenings.

PART IX.

MISCELLANEOUS PROVISIONS.

Land Matters.

Transfer of
land and other
public property
to the Govern-
ment of the
Transkei.

59. (1) The State President may by proclamation in the *Gazette* direct that any land or other public property in the Transkei, the ownership or control of which is vested in or has been acquired by the Government of the Republic, the Provincial Administration of the Cape of Good Hope or the South African Native Trust constituted in terms of section *four* of the Native Trust and Land Act, 1936 (Act No. 18 of 1936), and relating to matters in respect of which the Legislative Assembly may make laws, shall vest in or be transferred to the Government of the Transkei subject to the provisions of this Act and such other conditions as may be determined in the said proclamation: Provided that the boundaries of any regional authority area referred to in section *two* shall not be altered except with the consent of the regional authority concerned and that the land within any such regional authority area shall continue to be administered for the settlement, support, benefit and material and moral welfare of the tribes and ethnic groups residing therein at the commencement of this Act.

(2) All such land or other property shall thereupon vest in the Government of the Transkei without payment of transfer duty, stamp duty or any other fee or charge, but subject to any existing charge, obligation or trust on or over such property or otherwise lawfully affecting the same.

(3) The Registrar of Deeds shall upon production to him of the title deed to any immovable property referred to in sub-section (1) endorse the same to the effect that the immovable property therein described is vested in the Government of the Transkei and make the necessary entries in his registers, and thereupon the said title deed shall serve and avail for all purposes as the title deed of the Government of the Transkei to the said property.

Land within
municipal, village
management
board and
local board
areas may be
zoned for
occupation or
ownership by
Bantu persons.

60. (1) The Minister of Bantu Administration and Development may at any time appoint a committee to investigate the zoning of any area or portion of an area falling within the jurisdiction of any municipality, village management board or local board in any district mentioned in section *two* for occupation or ownership by Bantu persons.

(2) After consideration of the report of a committee appointed in terms of sub-section (1) the State President may by proclamation in the *Gazette* provide for the reservation of any area or defined portion of an area within any of the districts mentioned in section *two* which is under the jurisdiction of a municipality, village management board or local board, as an area for occupation or ownership by Bantu persons: Provided that any area or portion of an area which has been so reserved for occupation or ownership by Bantu persons may thereafter from time to time be extended by proclamation in the *Gazette*.

(3) Any such proclamation may also provide—

- (a) that any such area or portion of an area which has been reserved for occupation or ownership by Bantu persons shall cease to form part of the area under the jurisdiction of the municipality, village management board or local board concerned;
- (b) that any such area or portion of an area which has been so reserved for occupation or ownership by Bantu persons shall under such circumstances as may be specified in the proclamation or with effect from a date to be determined in the proclamation become a released area or a scheduled Native area or a Bantu area for the purposes of any law relating to released areas, scheduled Native areas or Bantu areas;
- (c) for the removal of any existing restrictions on the acquisition, ownership or occupation of any land within any such area or portion of such area or the imposition of any other restrictions on the acquisition, ownership or occupation of any such land;
- (d) for the constitution, powers, duties and functions of any body which may be considered necessary for the administration and control of any such area or portion of an area which has been declared to be an area for occupation or ownership by Bantu persons or for the said area or portion of an area to continue to be administered subject to such terms and conditions as may be specified in the proclamation by such

DEEL IX.

GEMENGDE BEPALINGS.

Grond-aangeleenthede.

59. (1) Die Staatspresident kan by proklamasie in die *Staatskoerant* gelas dat enige grond of ander openbare eiendom in die Transkei waarvan die eiendomsreg of beheer berus by of verkry is deur die Regering van die Republiek, die Provinsiale Administrasie van die Kaap die Goeie Hoop of die Suid-Afrikaanse Naturelletrust ingestel kragtens artikel vier van die Naturelletrust en -grond Wet, 1936 (Wet No. 18 van 1936), en wat betrekking het op sake waaroor die Wetgewende Vergadering wette kan maak, berus by of oorgedra word aan die Regering van die Transkei, onderworpe aan die bepalings van hierdie Wet en die ander voorwaardes wat in die bedoelde proklamasie bepaal word: Met dien verstande dat die grense van 'n streeksowerheidsgebied waarna in artikel twee verwys word nie sonder die toestemming van die betrokke streeksowerheid verander word nie en dat die grond in so 'n streeksowerheidsgebied nog vir die nedersetting, onderhoud, voordeel en stoflike en morele welsyn van die stamme en etniese groepe wat by die inwerkingtrekking van hierdie Wet daarin woon, geadministreer moet word.

Oordrag van grond en ander openbare eiendom aan Transkeise Regering.

(2) Daarna berus dié grond of ander eiendom sonder betaling van herereg, seëlreg of enige ander geld of koste by die Transkeise Regering, maar onderworpe aan enige bestaande las, verpligting of trust op of oor sodanige eiendom, of wat anders wettiglik daarop van toepassing is.

(3) By oorlegging aan hom van die titelbewys van onroerende goed waarna in sub-artikel (1) verwys word, endosseer die Registrateur van Aktes dit ten effekte dat die onroerende goed wat daarin beskryf word by die Regering van die Transkei berus en maak hy die nodige inskrywings in sy registers, en daarop dien en geld genoemde titelbewys vir alle doeleindes as die titelbewys van die Regering van die Transkei op bedoelde eiendom.

60. (1) Die Minister van Bantoe-administrasie en -ontwikkeling kan te eniger tyd 'n komitee aanstel om ondersoek in te stel na die afsondering van enige gebied of gedeelte van 'n gebied wat binne die regsgebied van 'n munisipaliteit, dorpsraad of plaaslike raad in 'n in artikel twee genoemde distrik val, vir okkupasie of besit deur Bantoepersone.

Grond binne munisipale gebiede, dorpsraad- en plaaslike raadsgebiede kan vir okkupasie of besit deur Bantoepersone afgesonder word.

(2) Na oorweging van die verslag van 'n komitee kragtens sub-artikel (1) aangestel, kan die Staatspresident by proklamasie in die *Staatskoerant* voorsiening maak vir die afsondering van 'n gebied of omskrewe gedeelte van 'n gebied in enige van die distrikte in artikel twee genoem wat binne die regsgebied van 'n munisipaliteit, dorpsraad of plaaslike raad val, as 'n gebied vir okkupasie of besit deur Bantoepersone: Met dien verstande dat 'n gebied of gedeelte van 'n gebied wat aldus vir okkupasie of besit deur Bantoepersone afgesonder is, daarna van tyd tot tyd by proklamasie in die *Staatskoerant* uitgebrei kan word.

(3) So 'n proklamasie kan ook voorsiening maak—

- (a) dat so 'n gebied of gedeelte van 'n gebied wat vir okkupasie of besit deur Bantoepersone afgesonder is, ophou om deel uit te maak van die regsgebied van die betrokke munisipaliteit, dorpsraad of plaaslike raad;
- (b) dat so 'n gebied of gedeelte van 'n gebied wat aldus vir okkupasie of besit deur Bantoepersone afgesonder is, onder omstandighede in die proklamasie bepaal, of vanaf 'n datum in die proklamasie vermeld, 'n oopgestelde gebied of 'n ingelyste naturellegebied of 'n Bantoegebied word vir die doeleindes van enige wet wat op oopgestelde gebiede, ingelyste naturellegebiede of Bantoegebiede betrekking het;
- (c) vir die verwydering van enige bestaande beperkings op die verkryging, besit of okkupasie van grond binne so 'n gebied of gedeelte van so 'n gebied of die oplegging van enige ander beperkings op die verkryging, besit of okkupasie van sodanige grond;
- (d) vir die samestelling, bevoegdhede, pligte en werksaamhede van enige liggaam wat nodig geag word om so 'n gebied of gedeelte van 'n gebied wat tot 'n gebied vir okkupasie of besit deur Bantoepersone verklaar is, te bestuur en te beheer, of vir die verdere bestuur van so 'n gebied of gedeelte van 'n gebied deur bedoelde munisipaliteit, dorpsraad of plaaslike raad, onderworpe aan die bepalings en voorwaardes wat in die prokla-

municipality, village management board or local board as if it had not ceased to form part of such a municipality, village management board or local board;

(e) for penalties by way of criminal sanctions for giving due effect to any such reservation or for the due enforcement of any bye-laws, rules, orders or directions made or given by any body referred to in paragraph (d) in the exercise of its powers, duties or functions; and

(f) generally for such other matters as may from time to time be necessary to ensure the effective operation of this section, the generality of the powers conferred by this paragraph not being limited by the provisions of the previous paragraphs.

(4) Save for the provisions of sections two to four, inclusive, seven to nine, inclusive, twenty to twenty-six, inclusive, and forty-three bis of the Group Areas Act, 1957 (Act No. 77 of 1957), that Act shall, except in an area which is the subject of a proclamation in terms of sub-section (2), in so far as it is applicable, continue to apply in any area under the jurisdiction of any municipality, village management board or local board in the districts referred to in section two: Provided that for the purposes of such application any reference in that Act to the "Minister" or the "Secretary" as therein defined shall be deemed to be a reference to the Minister and the Secretary respectively of Bantu Administration and Development.

Public Service Matters.

Officers and employees of Transkeian Territorial Authority and certain Bantu officers in the service of the Government of the Republic to become officers of the Transkei.

61. (1) All officers and employees of the Transkeian Territorial Authority and all Bantu officers and employees in the service of the Government of the Republic employed in the Transkei in connection with matters in respect of which the Legislative Assembly may make laws shall with effect from the date on which the first Cabinet is constituted or in the case of such officers or employees employed in connection with matters in respect of which the power to make laws is assigned to the Assembly after that date, with effect from the date upon which such power is so assigned become officers or employees in the service of the Transkei.

(2) The pension rights or other retiring benefits of officers and employees of the Republic of South Africa who become officers or employees of the Transkei in terms of sub-section (1) and the rights and benefits of the dependants of such officers and employees shall, subject to the provisions of sub-section (3), be regulated in accordance with the provisions of the Second Schedule to this Act.

(3) Unless and until the Legislative Assembly otherwise provides—

(a) the fund established by Proclamation No. 143 of 1921 shall after the establishment of the Government of the Transkei, be known as the Transkeian Government Employees' Pension and Gratuity Fund; and

(b) the provisions of the said proclamation, as amended from time to time, shall from and after the establishment of the Government of the Transkei apply to employees of that Government who do not contribute to a pension fund (other than a widows' pension fund) referred to in the Second Schedule.

Public Service Commission to be established.

62. There shall be a public service commission for the Transkei consisting of three persons to be appointed by the Cabinet with such powers and duties relating to the appointment, conditions of service, discipline, retirement and discharge of public officers and other incidental matters as the Legislative Assembly shall determine.

Services of White officials at disposal of the Government of the Transkei.

63. (1) The Government of the Republic may place at the disposal of the Government of the Transkei the services of such White officers or employees of the public service of the Republic as may be necessary for the proper control and administration of matters in respect of which the Legislative Assembly may make laws.

(2) Such officers or employees shall remain officers in the public service of the Republic and be paid by the Government of the Republic.

(3) The appointment, disciplinary control or removal of such officers or employees shall remain vested in the competent authority in the Republic, but subject to consultation with the Government of the Transkei and with due regard to any requests or suggestions which may be made by the latter.

masie genoem word, asof dit nie opgehou het om 'n deel van bedoelde munisipaliteit, dorpsraad of plaaslike raad uit te maak nie;

(e) vir strawwe by wyse van strafsanksies vir die behoorlike verwesenliking van enige sodanige afsondering of vir die behoorlike toepassing van enige verordeninge, reëls, bevels of opdragte deur enige liggaam in paragraaf (d) bedoel by die uitoefening van sy bevoegdhede, pligte en werksaamhede uitgevaardig of gegee; en

(f) in die algemeen vir die ander sake wat van tyd tot tyd nodig mag wees om die doeltreffende werking van hierdie artikel te verseker, en die algemene strekking van die bevoegdheid by hierdie paragraaf verleen, word nie deur die bepalings van die vorige paragrawe beperk nie.

(4) Behalwe in die geval van artikels twee tot en met vier, sewe tot en met nege, twintig tot en met ses-en-twintig en drie-en-veertig bis van die Wet op Groepsgebiede, 1957 (Wet No. 77 van 1957), is bedoelde Wet, behalwe in 'n gebied wat die onderwerp van 'n proklamasie kragtens sub-artikel (2) is, vir sover dit toegepas kan word, nog van toepassing in die regsg gebied van 'n munisipaliteit, dorpsraad of plaaslike raad in die distrikte in artikel twee bedoel: Met dien verstande dat vir die doeleindes van sodanige toepassing 'n verwysing in daardie Wet na die „Minister” of die „Sekretaris” soos daarin omskryf, as 'n verwysing onderskeidelik na die Minister en die Sekretaris van Bantoe-administrasie en -ontwikkeling uitgelê word.

Regeringsdiensaangeleenthede.

61. (1) Alle beamptes en werknemers van die Transkeise Gebiedsowerheid en alle Bantoebeamptes en -werknemers in diens van die Regering van die Republiek wat in die Transkei werksaam is in verband met aangeleenthede ten opsigte waarvan die Wetgewende Vergadering wette kan maak, word beamptes of werknemers in diens van die Transkei vanaf die datum waarop die eerste Kabinet tot stand kom, of, in die geval van sodanige beamptes of werknemers in diens in verband met aangeleenthede ten opsigte waarvan die bevoegdheid om wette te maak na daardie datum aan die Vergadering oorgedra word, vanaf die datum waarop sodanige bevoegdheid aldus oorgedra word.

Beamptes en werknemers van Transkeise Gebiedsowerheid en sekere Bantoebeamptes in diens van die Regering van die Republiek word beamptes van die Transkei.

(2) Die pensioenregte of ander aftredingsvoordele van beamptes en werknemers van die Republiek van Suid-Afrika wat kragtens sub-artikel (1) beamptes of werknemers van die Transkei word, en die regte en voordele van die afhanklikes van sodanige beamptes en werknemers word, behoudens die bepalings van sub-artikel (3), ooreenkomstig die bepalings van die Tweede Bylae by hierdie Wet gereël.

(3) Tensy en totdat die Wetgewende Vergadering anders bepaal—

(a) staan die fonds ingestel by Proklamasie No. 143 van 1921 na die totstandkoming van die Regering van die Transkei bekend as die Transkeise Regeringswerknemerspensioen- en -gratifikasiefonds; en

(b) is die bepalings van genoemde proklamasie, soos van tyd tot tyd gewysig, vanaf en na die totstandkoming van die Regering van die Transkei van toepassing op werknemers van daardie Regering wat nie tot 'n pensioenfonds (behalwe 'n weduweespensioenfonds) genoem in die Tweede Bylae bydra nie.

62. Daar is 'n regeringsdienskommissie vir die Transkei bestaande uit drie persone wat deur die Kabinet aangestel word, met die bevoegdhede en pligte betreffende die aanstelling, diensvoorwaardes, dissipline, uitdienstreding en ontslag van openbare beamptes en ander bykomstige aangeleenthede wat die Wetgewende Vergadering bepaal.

Regeringsdienskommissie word ingestel.

63. (1) Die Regering van die Republiek kan die dienste van sodanige blanke beamptes of werknemers uit die Staatsdiens van die Republiek as wat nodig is vir die behoorlike beheer en administrasie van aangeleenthede waarvoor die Wetgewende Vergadering wette kan maak, tot die beskikking van die Regering van die Transkei stel.

Dienste van blanke beamptes word tot beskikking van Transkeise Regering gestel.

(2) Sodanige beamptes en werknemers bly beamptes in die Staatsdiens van die Republiek en word deur die Regering van die Republiek betaal.

(3) Die aanstelling, tug of onttrekking van sodanige beamptes of werknemers bly by die bevoegde gesag in die Republiek berus, maar onderworpe aan oorlegpleging met die Regering van die Transkei en met behoorlike inagneming van enige versoeke of voorstelle wat deur laasgenoemde gemaak word.

(4) Such officers or employees shall be replaced progressively by suitable Bantu officials of the Transkei from the lower grades upwards and in accordance with details to be arranged between the Government of the Republic and the Government of the Transkei.

Appointment and dismissal of persons to vest in Cabinet.

64. Subject to the provisions of section *sixty-three* the appointment and dismissal of persons in the service of the Transkei shall, until such time as the Legislative Assembly otherwise prescribes, vest in the Cabinet, unless the appointment or dismissal is delegated by the Cabinet to some other authority.

Other Provisions.

Continuation of existing laws.

65. (1) Subject to the provisions of this Act, all laws which immediately prior to the commencement of this Act, were in force in any of the districts mentioned in section *two* shall continue in force until repealed or amended by the competent authority.

(2) If any provision of this Act or any other law is found to be ambiguous or to give rise to administrative difficulty in the application thereof in the Transkei, or any provision of this Act is found to be in conflict with any other law, the State President may, by Proclamation in the *Gazette*, determine the extent to which and the manner in which such other law shall apply in the districts referred to in section *two* in any manner he may deem necessary to remove the ambiguity, conflict or administrative difficulty.

Registration of vehicles and drivers licences.

66. (1) No law made by the Legislative Assembly in respect of the registration of vehicles or the licensing of drivers thereof shall apply with reference to any vehicle owned or driven by a person resident outside the Transkei which is brought into the Transkei or any such person who enters the Transkei for a temporary purpose and does not in either case remain therein for longer than six consecutive months.

(2) No registration of a vehicle or licence authorizing the driving thereof shall be required outside the Transkei in respect of any vehicle registered in the Transkei or any person licensed therein to drive such a vehicle if such vehicle is brought or such person enters any other area within the Republic and does not remain outside the Transkei for a longer period than six consecutive months.

Transfer of certain legal and executive powers.

67. All rights, powers, authorities, duties, obligations and functions which immediately prior to the commencement of this Act were vested by any law in a Minister or in any other authority or person in the Republic shall as far as the same have reference to matters in respect of which the Legislative Assembly has power to make laws in terms of section *thirty-seven* of this Act and as from the date of the constitution of the first Cabinet of the Transkei in terms of this Act be vested in the corresponding authority or person exercising similar powers, authorities and functions in the Transkei as from that date.

Claims against the Transkeian Government cognizable in any competent court.

68. (1) Any claim against the Government of the Transkei which would, if that claim had arisen against a person, be the ground of an action in any competent court, shall be cognizable by such court, whether the claim arises out of any contract, lawfully entered into on behalf of the Government of the Transkei or out of any wrong committed by any servant of that Government acting in his capacity and within the scope of his authority as such servant.

(2) In any action or other proceedings instituted by virtue of the provisions of sub-section (1), the Minister of the department concerned may be cited as nominal defendant or respondent.

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

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

- (a) limits the liability of the Government of the Transkei or any department thereof in respect of any act or omission of its servants; or
- (b) prescribes specified periods within which a claim is to be made in respect of any such liability; or
- (c) imposes conditions on the institution of any action.

(4) Sodanige beamptes of werknemers word geleidelik vanaf die laer tot die hoër range deur geskikte Bantoebeamptes van die Transkei vervang volgens reëlins waarvan die besonderhede deur die Regering van die Republiek en die Regering van die Transkei onderling bepaal word.

64. Behoudens die bepalings van artikel *drie-en-sestig*, en tot tyd en wyl die Wetgewende Vergadering anders voorskryf, berus die aanstelling en ontslag van persone in diens van die Transkei by die Kabinet, tensy die Kabinet die aanstelling of ontslag aan 'n ander gesag delegeer.

Aanstelling en ontslag van persone berus by Kabinet.

Ander Bepalings.

65. (1) Behoudens die bepalings van hierdie Wet bly alle wette wat onmiddellik voor die inwerkingtreding van hierdie Wet in die distrikte genoem in artikel *twee* gegeld het, van krag totdat hulle deur die bevoegde gesag herroep of gewysig word.

Voortbestaan van bestaande wette.

(2) Indien 'n bepaling van hierdie Wet of 'n ander wetsbepaling by die toepassing daarvan in die Transkei, dubbelsinnig blyk of tot administratiewe moeilikheid aanleiding gee, of 'n bepaling van hierdie Wet in stryd met enige ander wet bevind word, kan die Staatspresident by proklamasie in die *Staatskoerant* bepaal in hoeverre en op watter wyse daardie ander wetsbepaling in die in artikel *twee* bedoelde distrikte geld, na gelang hy nodig ag om die dubbelsinnigheid, strydigheid of administratiewe moeilikheid uit die weg te ruim.

66. (1) 'n Wet deur die Wetgewende Vergadering in verband met die registrasie van voertuie of die lisensiëring van bestuurders daarvan gemaak, is nie van toepassing met betrekking tot 'n voertuig wat die eiendom is van of bestuur word deur iemand wat buite die Transkei woon en wat die Transkei binnegebring word of so iemand wat die Transkei binnekom vir 'n tydelike doel en in geen geval langer as ses agtereenvolgende maande daarin gehou word of vertoef nie.

Registrasie van voertuie en bestuurderslisensies.

(2) Die registrasie van 'n voertuig, of 'n lisensie wat die bestuur daarvan magtig, word nie buite die Transkei vereis ten opsigte van 'n voertuig wat in die Transkei geregistreer is of 'n persoon wat daarin gelisensieer is om so 'n voertuig te bestuur nie, wanneer dié voertuig of dié persoon in 'n ander gebied binne die Republiek ingebring word of dit binnegaan en nie vir 'n tydperk van langer as ses agtereenvolgende maande buite die Transkei bly nie.

67. Alle regte, bevoegdhede, gesag, pligte, verpligtings en werksaamhede wat onmiddellik voor die inwerkingtreding van hierdie Wet kragtens enige wet by 'n Minister of by 'n ander gesag of persoon in die Republiek berus het, en wat betrekking het op sake waarvoor die Wetgewende Vergadering kragtens artikel *sewe-en-dertig* van hierdie Wet bevoeg is om wette te maak, berus vanaf die datum waarop die eerste Kabinet van die Transkei kragtens hierdie Wet tot stand kom by die ooreenstemmende gesag of persoon wat soortgelyke bevoegdhede, gesag en werksaamhede vanaf daardie datum in die Transkei uitoefen.

Oordrag van sekere wetlike en uitvoerende bevoegdhede.

68. (1) Enige eis teen die Transkeise Regering wat, indien daardie eis teen 'n persoon ontstaan het, 'n grond van aksie in 'n bevoegde hof sou uitmaak, is deur daardie hof beregbaar, hetsy die eis ontstaan uit 'n kontrak wat wettiglik namens die Regering van die Transkei aangegaan is of uit 'n onregmatige daad wat deur 'n dienaar van daardie Regering handelende in sy hoedanigheid en binne die omvang van sy bevoegdheid as so 'n dienaar verrig is.

Eise teen die Transkeise Regering is beregbaar in enige bevoegde hof.

(2) In 'n aksie of ander regsgeding uit hoofde van die bepalings van sub-artikel (1) ingestel, kan die Minister van die betrokke departement as nominale verweerder of respondent gesitueer word.

(3) Geen lasbrief tot tenuitvoerlegging of beslaglegging of dergelyke prosesstuk kan in so 'n aksie of regsgeding teen die nominale verweerder of respondent of teen eiendom van die Regering van die Transkei uitgereik word nie, maar die bedrag, as daar is, wat vereis mag word om aan 'n uitspraak of bevel wat in so 'n aksie of regsgeding teen die nominale verweerder of respondent gedoen of uitgereik is, te voldoen, kan uit die Transkeise Inkomstefonds betaal word.

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

- (a) die aanspreeklikheid van die Regering van die Transkei of 'n departement daarvan ten opsigte van 'n handeling of versuim van sy dienaars beperk; of
- (b) bepaalde tydperke voorskryf waarin 'n eis ten opsigte van sodanige aanspreeklikheid ingestel moet word; of
- (c) voorwaardes vir die instelling van 'n aksie oplaë.

Validity
of laws.

69. (1) Any provincial or local division of the Supreme Court of South Africa having jurisdiction in the Transkei and, after its establishment by virtue of the provisions of section fifty of this Act, the High Court of the Transkei shall have jurisdiction in all matters in which the validity of a law of the Legislative Assembly shall come into question.

(2) No magistrate's court or other inferior court shall be competent to pronounce upon the validity of a law of the Legislative Assembly.

State President
may make laws
for certain
matters by
Proclamation
in transition
period.

70. (1) In the transition period from and after the commencement of this Act up to the date on which the first Cabinet of the Transkei is constituted in terms of this Act, the State President may by proclamation in the *Gazette* repeal or amend existing laws or make new laws for the Transkei in connection with—

- (a) the registration of voters for the election of members of the Legislative Assembly for the purposes of this Act and the conduct of any such election in terms of this Act;
- (b) the appointment, conditions of service, discipline, retirement and discharge of public officers or employees of the Transkei or the transfer of public officers from the employ of the Government of the Republic to the Government of the Transkei;
- (c) the pensions, gratuities or other compensation of officers in the Transkei;
- (d) the salaries and allowances payable to the Chairman and members of the Legislative Assembly, including the Chief Minister and other members of the Cabinet, paramount chiefs and chiefs, members of the Public Service Commission, officers and employees of the Transkei and other persons in respect of whom salaries or allowances may be payable;
- (e) rules of procedure for the Legislative Assembly;
- (f) the transfer of administrative matters to the Government of the Transkei; and
- (g) generally, all such matters as may be necessary in connection with the establishment of the Government and the proper administration of the Transkei.

(2) The Legislative Assembly may amend or repeal any provision made under sub-section (1).

(3) Nothing in this Act contained shall affect the powers vested in the State President in terms of section *twenty-five* of the Native Administration Act, 1927 (Act No. 38 of 1927), or in terms of the Transkeian Annexation Act, 1877 (Act No. 38 of 1877), the Walfish Bay and St. John's River Territories Annexation Act, 1884 (Act No. 35 of 1884) so far as it relates to the St. John's River Territory, the Tembuland Annexation Act, 1885 (Act No. 3 of 1885), and the Transkeian Territories, Tembuland and Pondoland Laws Act, 1897 (Act No. 29 of 1897), of the Cape of Good Hope, to repeal, amend or make laws by proclamation in the *Gazette* in connection with those matters in respect of which legislative powers are not vested in the Legislative Assembly by virtue of this Act or in respect of such areas as are not included in the Transkei as defined in this Act.

Executive powers,
authorities and
functions to
vest temporarily
in Minister.

71. All such executive powers, authorities and functions as are necessary to be executed in terms of this Act for bringing this Act into operation and, if necessary, for ensuring the continuation of the administration and government in the Transkei in terms of this Act, may be exercised or performed by the Minister of Bantu Administration and Development.

Repeal of laws.

72. All laws which in their application to the Transkei may be repugnant to or inconsistent with the provisions of this Act are hereby repealed to the extent of such repugnancy or inconsistency.

PART X.

DEFINITIONS AND SHORT TITLE.

Definitions.

73. In this Act, unless the context otherwise indicates—

- (i) "accounting officer" means any person lawfully charged with the duty of accounting for any service provided for in an Appropriation Act, or any person to whom issues are made by virtue of the provisions of an Appropriation Act; (xvii)

69. (1) 'n Provinsiale of plaaslike afdeling van die Hoog-geregshof van Suid-Afrika wat regsbevoegheid in die Transkei besit, en, na sy instelling kragtens die bepalings van artikel vyftig van hierdie Wet, die Hoërhof van die Transkei, het regsbevoegdheid oor alle sake waarby die geldigheid van 'n wet van die Wetgewende Vergadering ter sprake kom.

Geldigheid van wette.

(2) 'n Landdroshof of ander laerhof is nie bevoeg om oor die geldigheid van 'n wet van die Wetgewende Vergadering te beslis nie.

70. (1) In die oorgangstydperk vanaf en na die inwerking-treding van hierdie Wet tot die datum waarop die eerste Kabinet van die Transkei kragtens hierdie Wet saamgestel word, kan die Staatspresident by proklamasie in die *Staatskoerant* bestaande wette intrek of wysig of nuwe wette vir die Transkei maak in verband met—

Staatspresident kan tydens oorgangstydperk vir sekere sake by proklamasie wette maak.

- (a) die registrasie van kiesers vir die verkiesing van lede van die Wetgewende Vergadering vir die doeleindes van hierdie Wet en die hou van enige sodanige verkiesing kragtens hierdie Wet;
- (b) die aanstelling, diensvoorwaardes, tug, aftrede en ontslag van openbare beamptes of werknemers van die Transkei of die oorpasing van openbare beamptes uit die diens van die Regering van die Republiek na die Regering van die Transkei;
- (c) die pensioene, gratifikasies of ander vergoeding van beamptes in die Transkei;
- (d) die salarisse en toelaes betaalbaar aan die Voorsitter en lede van die Wetgewende Vergadering, met inbegrip van die Hoofminister en ander lede van die Kabinet, hoofkapteins en kapteins, lede van die Regeringsdienskommissie, beamptes en werknemers van die Transkei en ander persone ten opsigte van wie salarisse of toelaes betaalbaar mag wees;
- (e) reglemente van orde vir die Wetgewende Vergadering;
- (f) die oordrag van administratiewe sake aan die Regering van die Transkei; en
- (g) in die algemeen alle aangeleenthede wat nodig is vir die instelling van die Regering en die behoorlike bestuur van die Transkei.

(2) Die Wetgewende Vergadering kan enige voorsiening kragtens sub-artikel (1) gemaak, wysig of herroep.

(3) Die bepalings van hierdie Wet raak nie die bevoegdhede van die Staatspresident ingevolge artikel vyf-en-twintig van die Naturelle-administrasie Wet, 1927 (Wet No. 38 van 1927), of ingevolge die „Transkeian Annexation Act, 1877” (Wet No. 38 van 1877), die „Walfish Bay and St. John's River Territories Annexation Act, 1884” (Wet No. 35 van 1884), vir sover dit betrekking het op die „St. John's River Territory”, die „Tembuland Annexation Act, 1885” (Wet No. 3 van 1885), en die „Transkeian Territories, Tembuland and Pondoland Laws Act, 1897” (Wet No. 29 van 1897), van die Kaap die Goeie Hoop, om by proklamasie in die *Staatskoerant* wette te herroep, te wysig of te maak in verband met daardie sake ten opsigte waarvan wetgewende bevoegdheid nie kragtens hierdie Wet by die Wetgewende Vergadering berus nie of ten opsigte van gebiede wat nie by die Transkei soos in hierdie Wet omskryf, ingesluit is nie.

71. Alle uitvoerende bevoegdhede, gesag en werksaamhede wat nodig is om ingevolge hierdie Wet uitgeoefen te word ten einde hierdie Wet in werking te stel en, indien nodig, die voortsetting van die administrasie en regering in die Transkei ingevolge hierdie Wet te verseker, kan deur die Minister van Bantoe-administrasie en -ontwikkeling uitgeoefen of verrig word.

Uitvoerende bevoegdheid, gesag en funksies berus tydelik by Minister.

72. Alle wette wat by die toepassing daarvan op die Transkei teenstrydig of onbestaanbaar is met die bepalings van hierdie Wet word hierby herroep vir sover hulle aldus teenstrydig of onbestaanbaar is.

Herroeping van wette.

DEEL X.

WOORDOMSKRYWING EN KORT TITEL.

73. Tensy uit die samehang anders blyk, beteken in hierdie Wet—

Woordomskrywing.

- (i) „algemene verkiesing” 'n verkiesing waarby die vyf-en-veertig lede van die Wetgewende Vergadering in paragraaf (c) van artikel drie-en-twintig bedoel, verkies word; (xi)

- (ii) "Bantu area" or "Bantu Homeland" means areas referred to in sub-section (1) of section *twenty-five* of the Native Administration Act, 1927 (Act No. 38 of 1927), in sub-section (1) of section *twenty-one* of the Native Trust and Land Act, 1936 (Act No. 18 of 1936), and any area which is a Native location in terms of section *nineteen* of the Native Taxation and Development Act, 1925 (Act No. 41 of 1925); (ii)
- (iii) "Bantu person" means a person who in fact is or is generally accepted as a member of any aboriginal race or tribe of Africa; (iii)
- (iv) "Cabinet" means the Cabinet referred to in section *nine*; (xii)
- (v) "Chief" means a person duly appointed or recognized as a chief in terms of sub-section (7) of section *two* of the Native Administration Act, 1927 (Act No. 38 of 1927), and any person appointed in terms of sub-section (8) of that section to act temporarily in the place of a chief, and a person whose designation as chief or acting chief has been confirmed in terms of section *forty-five*; (xiii)
- (vi) "Commissioner-General" means the Commissioner-General of the Xhosa National Unit appointed in terms of the Promotion of Bantu Self-government Act, 1959 (Act No. 46 of 1959); (xiv)
- (vii) "community authority" means a Bantu tribal or community authority in terms of section *ten* of Proclamation No. 180 of 1956; (viii)
- (viii) "district authority" means a Bantu district authority established in terms of sub-section (1) of section *four* of Proclamation No. 180 of 1956 and shall include a tribal or community authority which also operates as a district authority in terms of sub-section (1) of section *thirty-eight* of that Proclamation; (v)
- (ix) "financial year" means the period from the first day of April in any year to the thirty-first day of March in the year next succeeding, both days inclusive, until otherwise provided by resolution of the Legislative Assembly; (iv)
- (x) "Gazette" means the Government Gazette of the Republic of South Africa: Provided that if any matter to be published in the Gazette is one in respect of which the Legislative Assembly may make laws in terms of this Act or which falls within the scope of the functions of the Government of the Transkei, publication shall be in the *Official Gazette* of the Transkei; (xix)
- (xi) "general election" means an election at which the forty-five members of the Legislative Assembly mentioned in paragraph (c) of section *twenty-three* are elected; (i)
- (xii) "headman" means a headman duly appointed in terms of sub-section (8) of section *two* of the Native Administration Act, 1927 (Act No. 38 of 1927), or a headman appointed in terms of sub-section (8) of section *eleven* of Proclamation No. 180 of 1956, and includes any person appointed in terms of those provisions to act temporarily in the place of such a headman; (x)
- (xiii) "Legislative Assembly" or "Assembly" means the Legislative Assembly established in terms of this Act; (xxiv)
- (xiv) "local board" means a board in respect of which the provisions of the Local Board Ordinance, 1921 (Ordinance No. 11 of 1921), of the Cape of Good Hope apply; (xvi)
- (xv) "municipality" means a municipality in respect of which the provisions of the Municipal Ordinance, 1951 (Ordinance No. 19 of 1951), of the Cape of Good Hope apply; (xv)
- (xvi) "Paramount Chief" means a person duly appointed or recognized as a paramount chief in terms of sub-section (7) of section *two* of the Native Administration Act, 1927 (Act No. 38 of 1927), and a person whose designation as a paramount chief or acting paramount chief has been confirmed in terms of section *forty-five*; (ix)
- (xvii) "public moneys" include—
 - (a) all revenue; and
 - (b) all other moneys whatsoever, received or held by, for or on account of the Government of the Transkei; (xviii)

- (ii) „Bantoegebied” of „Bantoetuisland” ’n gebied in sub-artikel (1) van artikel *vyf-en-twintig* van die Naturelle-administrasie Wet, 1927 (Wet No. 38 van 1927), of in sub-artikel (1) van artikel *een-en-twintig* van die Naturelletrust en -grond Wet, 1936 (Wet No. 18 van 1936), bedoel, en enige gebied wat ooreenkomstig artikel *negentien* van die Naturelle Belasting en Ontwikkeling Wet, 1925 (Wet No. 41 van 1925), ’n naturellokasie is; (ii)
- (iii) „Bantoe persoon” ’n persoon wat werklik ’n lid van ’n inboorlingras of -stam van Afrika is of algemeen daarvoor deurgaen; (iii)
- (iv) „boekjaar” die tydperk vanaf die eerste dag van April in enige jaar tot die een-en-dertigste dag van Maart in die daaropvolgende jaar, albei dae ingesluit, totdat die Wetgewende Vergadering by besluit anders bepaal; (ix)
- (v) „distriksowerheid” ’n Bantoe distriksowerheid ingestel kragtens sub-artikel (1) van artikel *vier* van Proklamasie No. 180 van 1956, en ook ’n stam- of gemeenskapsowerheid wat kragtens sub-artikel (1) van artikel *agt-en-dertig* van daardie proklamasie ook as ’n distriksowerheid optree; (viii)
- (vi) „dorpsraad” ’n raad ten opsigte waarvan die bepalings van die „Dorpsbesturen Ordonnantie, 1921” (Ordonnansie No. 10 van 1921), van die Kaap die Goeie Hoop van toepassing is; (xxiv)
- (vii) „gebiedsoowerheid” ’n gebiedsoowerheid ingestel kragtens paragraaf (c) van sub-artikel (1) van artikel *twee* van die Wet op Bantoe-oowerhede, 1951 (Wet No. 68 van 1951); (xxii)
- (viii) „gemeenskapsowerheid” ’n Bantoe stam- of -gemeenskapsowerheid ingevolge artikel *tien* van Proklamasie No. 180 van 1956; (vii)
- (ix) „hoofkaptein” ’n persoon behoortlik aangestel of erken as ’n hoofkaptein ingevolge sub-artikel (7) van artikel *twee* van die Naturelle-administrasie Wet, 1927 (Wet No. 38 van 1927), en ’n persoon wie se aanwysing as hoofkaptein of waarnemende hoofkaptein ingevolge artikel *vyf-en-veertig* bekragtig is; (xvi)
- (x) „hoofman” ’n hoofman behoortlik aangestel ingevolge sub-artikel (8) van artikel *twee* van die Naturelle-administrasie Wet, 1927 (Wet No. 38 van 1927), of ’n hoofman aangestel ingevolge sub-artikel (8) van artikel *elf* van Proklamasie No. 180 van 1956, en ook iemand wat ingevolge daardie bepalings aangestel is om in ’n tydelike hoedanigheid in die plek van so ’n hoofman op te tree; (xii)
- (xi) „inkomste” alle belastinge, heffings, gelde en regte en alle territoriale, toevallige en ander ontvangste wat die Regering van die Transkei toeval, uit watter bron ook al afkomstig, en waarvoor die Wetgewende Vergadering beskikkingsreg het, en ook die opbrengs van alle lenings wat aan die Transkei toegestaan word; (xx)
- (xii) „Kabinet” die Kabinet in artikel *nege* bedoel; (iv)
- (xiii) „kaptein” ’n persoon wat wettiglik aangestel of erken is as ’n kaptein kragtens sub-artikel (7) van artikel *twee* van die Naturelle-administrasie Wet, 1927 (Wet No. 38 van 1927), en enige persoon aangestel kragtens sub-artikel (8) van daardie artikel om tydelik in die plek van ’n kaptein waar te neem, en ’n persoon wie se aanwysing as kaptein of waarnemende kaptein kragtens artikel *vyf-en-veertig* bekragtig is; (v)
- (xiv) „Kommissaris-generaal” die Kommissaris-generaal van die Xhosa-volkseenheid aangestel kragtens die Wet op die Bevordering van Bantoe-selfbestuur, 1959 (Wet No. 46 van 1959); (vi)
- (xv) „munisipaliteit” ’n munisipaliteit ten opsigte waarvan die bepalings van die Munisipale Ordonnansie, 1951 (Ordonnansie No. 19 van 1951), van die Kaap die Goeie Hoop van toepassing is; (xv)
- (xvi) „plaaslike raad” ’n raad ten opsigte waarvan die bepalings van die „Plaaslike Besturen Ordonnantie, 1921” (Ordonnansie No. 11 van 1921), van die Kaap die Goeie Hoop van toepassing is; (xiv)
- (xvii) „rekenpligtige amptenaar” ’n persoon wat wettiglik belas is met die verantwoording van ’n diens waarvoor in ’n Begrotingswet voorsiening gemaak word, of ’n persoon aan wie uitbetalings kragtens die bepalings van ’n Begrotingswet geskied; (i)

- (xviii) "regional authority" means a Bantu regional authority established in terms of sub-section (1) of section *thirty-nine* of Proclamation No. 180 of 1956, and includes a district authority permitted to function as a regional authority in terms of proviso (a) of sub-section (1) of that section; (xxi)
- (xix) "regional authority area" means the whole area comprising one or more districts for which a regional authority has been established in terms of sub-section (1) of section *thirty-nine* of Proclamation No. 180 of 1956; and "regional" or "region" have corresponding meanings; (xxii)
- (xx) "revenues" means all taxes, imposts, rates and duties and all territorial, casual and other receipts accruing to the Government of the Transkei, from whatever source arising and over which the Legislative Assembly has power of appropriation and includes the proceeds of all loans made to the Transkei; (xi)
- (xxi) "statutory body" means any council, board, bank, fund, institution, company, corporation or other organization established or constituted under or by virtue of the provisions of any law, in terms of which the accounts of such statutory body are to be audited by the Controller and Auditor-General; (xx)
- (xxii) "territorial authority" means a territorial authority established in terms of paragraph (c) of sub-section (1) of section *two* of the Bantu Authorities Act, 1951 (Act No. 68 of 1951); (vii)
- (xxiii) "Transkeian Territorial Authority" means the Transkeian Territorial Authority established in terms of sub-section (1) of section *four* of Proclamation No. 180 of 1956; (xxiii)
- (xxiv) "village management board" means a board in respect of which the provisions of the Village Management Boards Ordinance, 1921 (Ordinance No. 10 of 1921), of the Cape of Good Hope apply. (vi)

Short Title.

74. This Act shall be called the Transkei Constitution Act, 1963.

First Schedule.

PART A.

GOVERNMENT DEPARTMENTS IN THE TRANSKEI REFERRED TO IN SECTION *ten* OF THIS ACT.

1. Departments of the Chief Minister and of Finance.
2. Department of Justice.
3. Department of Education.
4. Department of the Interior.
5. Department of Agriculture and Forestry.
6. Department of Roads and Works.

PART B.

MATTERS FALLING WITHIN THE CLASSES OF SUBJECTS IN RESPECT OF WHICH THE TRANSKEIAN LEGISLATIVE ASSEMBLY SHALL HAVE POWER TO MAKE LAWS AND REFERRED TO IN SECTION *thirty-seven* OF THIS ACT.

1. Direct taxation on citizens of the Transkei, whether resident within or outside the Transkei, and on property situated within the Transkei.
2. Bantu education in the districts mentioned in section *two* of this Act, whether within or outside Bantu areas in any such district, but not within any area in the district of Matatiele or Port St. John's which is not a Bantu area.
3. Agriculture including soil and veld conservation, stock improvement, development, maintenance and conservation of water supplies, irrigation, forestry and veterinary services in the Transkei, but excluding control over the importation into and the exportation from the Republic of stock, exotic animals, poultry, birds, insects, agricultural or other products, plants, farm feeds, seeds, fertilizers, stock remedies, vaccines, biologicals or anything liable to spread disease or infection.
4. Subject to the provisions of sections *forty-eight* and *forty-nine* of this Act, the establishment, administration and control of inferior courts in any district mentioned in section *two* of this Act.
5. The appointment, powers, duties and functions of justices of the peace and commissioners of oaths in the Transkei.
6. The protection of life, persons and property and the prevention of cruelty to animals in the Transkei.
7. The control, organization and administration of such personnel or such part of the Police Force stationed in the Transkei as may have been transferred to the government of the Transkei by the Minister

- (xviii) „staatsgelde” ook—
 - (a) alle inkomste; en
 - (b) alle ander gelde hoegenaamd ontvang of gehou deur, vir of vir rekening van die Regering van die Transkei; (xvii)
- (xix) „Staatskoerant” die *Staatskoerant* van die Republiek van Suid-Afrika: Met dien verstande dat indien ’n aangeleentheid wat in die *Staatskoerant* afgekondig moet word een is ten opsigte waarvan die Wetgewende Vergadering ooreenkomstig hierdie Wet wette kan maak of wat binne die bestek van die werksaamhede van die Regering van die Transkei val, die publikasie in die *Amptelike Koerant* van die Transkei moet geskied; (x)
- (xx) „statutêre liggaam” enige raad, bank, fonds, inrigting, maatskappy, korporasie of ander organisasie ingestel of saamgestel by of kragtens ’n wetsbepaling ingevolge waarvan die rekenings van so ’n statutêre liggaam deur die Kontroleur en Ouditeur-generaal geouditeer moet word; (xxi)
- (xxi) „streeksowerheid” ’n Bantolestreeksowerheid ingestel ingevolge sub-artikel (1) van artikel *nege-en-dertig* van Proklamasie No. 180 van 1956, en ook ’n distriksowerheid wat ingevolge voorbehoudsbepaling (a) van sub-artikel (1) van daardie artikel toegelaat is om as ’n streeksowerheid op te tree; (xviii)
- (xxii) „streeksowerheidsgebied” die hele gebied bestaande uit een of meer distrikte waarvoor ’n streeksowerheid kragtens sub-artikel (1) van artikel *nege-en-dertig* van Proklamasie No. 180 van 1956 ingestel is; en het „streeks-” of „streek” ooreenstemmende betekenis; (xix)
- (xxiii) „Transkeise Gebiedsowerheid” die Transkeise Gebiedsowerheid ingestel kragtens sub-artikel (1) van artikel *vier* van Proklamasie No. 180 van 1956; (xxiii)
- (xxiv) „Wetgewende Vergadering” of „Vergadering” die Wetgewende Vergadering ingestel ingevolge die bepalings van hierdie Wet; (xiii).

74. Hierdie Wet heet die Transkeise Grondwet, 1963.

Kort titel.

Eerste Bylae.

DEEL A.

STAATSDEPARTEMENTE IN DIE TRANSKEI WAARNA IN ARTIKEL *tien* VAN HIERDIE WET VERWYS WORD.

1. Departemente van die Hoofminister en van Finansies.
2. Departement van Justisie.
3. Departement van Onderwys.
4. Departement van Binnelandse Sake.
5. Departement van Landbou en Bosbou.
6. Departement van Paaie en Werke.

DEEL B.

AANGELEENTHEDE WAT BINNE DIE KLASSE AANGELEENTHEDE VAL TEN OPSIGTE WAARVAN DIE WETGEWENDE VERGADERING VAN DIE TRANSKEI BEVOEG IS OM WETTE TE MAAK EN WAARNA IN ARTIKEL *sewe-en-dertig* VAN HIERDIE WET VERWYS WORD.

1. Direkte belasting op burgers van die Transkei, hetsy in of buite die Transkei woonagtig, en op eiendom in die Transkei geleë.
2. Bantoe-onderwys in die distrikte in artikel *twee* van hierdie Wet genoem, hetsy in of buite Bantoegebiede in so ’n distrik, maar nie in ’n gebied in die distrik Matatiele of Port St. Johns wat nie ’n Bantoegebied is nie.
3. Landbou, met inbegrip van grond- en veldbewaring, veeverbetering, ontwikkeling, onderhoud en bewaring van watervoorrade, besproeiing, bosbou en veeartsenydienste in die Transkei, maar met uitsondering van beheer oor die invoer in of uitvoer uit die Republiek van vee, uitheemse diere, pluimvee, voëls, insekte, landbou- of ander produkte, plante, veevoer, saad, misstowwe, veegeneesmiddels, entstowwe, biologiese materiaal of enigiets wat siekte of besmetting sou kon versprei.
4. Behoudens die bepalings van artikels *agt-en-veertig* en *nege-en-veertig* van hierdie Wet, die instelling, administrasie en beheer van laerhove in enige distrik genoem in artikel *twee* van hierdie Wet.
5. Die aanstelling, bevoegdhede, pligte en werksaamhede van vrederegters en kommissarisse van ede in die Transkei.
6. Die beskerming van lewe, persone en eiendom en die voorkoming van dieremishandeling in die Transkei.
7. Die beheer, organisasie en administrasie van dié personeel of dié deel van die Polisiemag wat in die Transkei gestasioneer is en deur die Minister van Justisie van die Republiek aan die Regering van die Transkei oorgedra is, en belas is met die handhawing van wet en orde, die onder-

of Justice of the Republic, and charged with the maintenance of law and order, the investigation of any offence or alleged offence, the enforcement of any law and the prevention of crime in the Transkei to the extent and subject to such conditions as may be determined by the said Minister.

8. The administration of deceased estates, the execution of wills and matters relating to succession in respect of citizens of the Transkei resident in any of the districts mentioned in section *two* of this Act.

9. Land settlement, registration of deeds and surveys in the Transkei but excluding trigonometrical surveys.

10. Public works and undertakings, roads, outspans, ponds and bridges in the Transkei, excluding bridges between the Transkei and any other part of the Republic and roads which have been declared to be national roads.

11. (a) Municipal institutions, Bantu authorities referred to in section *forty-six* of this Act and other local institutions of a similar nature in the Transkei.

(b) Institutions or bodies in the Transkei other than such institutions as are referred to in paragraph (a) which have in respect of one or more areas (whether contiguous or not) outside the area of jurisdiction of any institution contemplated by that paragraph authority and functions similar to the authority and functions of any such last-mentioned institution or in respect of the preservation of public health in such area or areas, including any such body as is referred to in section *seven* of the Public Health Act, 1919 (Act No. 36 of 1919).

12. The regulation and control of road traffic, including the licensing and control of vehicles and the drivers of vehicles in the Transkei, but excluding all matters dealt with in the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930), or the Motor Vehicle Insurance Act, 1942 (Act No. 29 of 1942).

13. Labour matters in the Transkei but excluding all matters dealt with in the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), or the Unemployment Insurance Act, 1946 (Act No. 53 of 1946).

14. Welfare services including child welfare and the administration of social benefit schemes for the aged, infirm and blind, as well as disability grants and pauper relief for citizens of the Transkei in the districts referred to in section *two* of this Act, but not within any area in the district of Matatiele or Port St. John's which is not a Bantu area.

15. Births, deaths and marriages in respect of citizens of the Transkei in the districts mentioned in section *two* of this Act.

16. Registration of voters and the conduct of elections for the purposes of this Act and matters incidental thereto, including such registration and the conduct of such elections at any place in the Republic outside the Transkei.

17. The appointment, conditions of service, discipline, retirement, discharge and pensioning of public officers or employees of the Government of the Transkei and generally the administration and control of departments and matters assigned to that government.

18. Intoxicating liquor in the Transkei.

19. Markets and pounds in the Transkei.

20. Fish and game preservation in the Transkei subject to the provisions of section *fourteen* of the Sea Fisheries Act, 1940 (Act No. 10 of 1940).

21. The control and licensing of trading and business in the Transkei but excluding the licensing of dealings in arms and ammunition and explosives.

22. The collection of and the control over all revenue and income payable to the Government of the Transkei in terms of any law, or deriving from any other source, or specially assigned to the Government of the Transkei by the State President by Proclamation in the *Gazette*.

23. The imposition of punishment for enforcing any law of the Legislative Assembly made in relation to any matter coming within any of the classes of subjects enumerated in this schedule.

24. Generally all matters which in the opinion of the State President and according to his written directions are of a merely local or private nature in the Transkei.

Second Schedule.

PROVISIONS AS TO PENSIONS REFERRED TO IN SUB-SECTION (2) OF SECTION *sixty-one* OF THIS ACT.

1. For the purposes of this Schedule—

(a) "the Pensions Act" means the Government Service Pensions Act, 1955 (Act No. 58 of 1955);

(b) "the widows' pension fund" means the fund referred to in section *seventy-one* of the Pensions Act, and the expressions "approved fund" and "new fund" shall have the meanings assigned thereto in sections *seventy* and *one hundred and nine*, respectively, of the Pensions Act.

2. Subject to the provisions of paragraph 3 every person in the service of the Government of the Republic—

(a) who is a contributor to a pension fund administered by a department of the public service of the Republic or a provincial administration; and

(b) who becomes an officer or employee of the Government of the Transkei in terms of sub-section (1) of section *sixty-one* of this Act,

shall retain all rights acquired by him and remain subject to all obligations incurred by him as a contributor to such a fund, as if he had not become an officer or employee of the Government of the Transkei, and the Government of the Transkei shall as from the date on which such person becomes such an officer or employee, pay to the Government of the Republic an amount equal to the amount which the Government of the Republic would have been required to pay in terms of any law to such a pension fund in respect of such person if the transfer had not taken place.

soek van enige misdryf of beweerde misdryf, die uitvoering van enige wet en die voorkoming van misdaad in die Transkei, vir sover en onderworpe aan die voorwaardes deur bedoelde Minister bepaal.

8. Die administrasie van bestorwe boedels, die verlyding van testamente en sake rakende erfopvolging van burgers van die Transkei woonagtig in enige van die distrikte genoem in artikel *twee* van hierdie Wet.

9. Nedersetting, registrasie van aktes en opmetings in die Transkei, maar nie ook trigonometrieëse opmetings nie.

10. Openbare werke en ondernemings, paaie, uitspannings, ponte en brûe in die Transkei, behalwe brûe tussen die Transkei en enige ander deel van die Republiek en paaie wat tot nasionale paaie verklaar is.

11. (a) Munisipale instellings, Bantoe-owerhede in artikel *ses-en-veertig* van hierdie Wet bedoel en ander plaaslike instellings van 'n soortgelyke aard in die Transkei.

(b) Ander instellings of liggame in die Transkei as instellings in paragraaf (a) bedoel, wat ten opsigte van een of meer gebiede (hetsy aangrensend al dan nie) buite die magsgebied van 'n instelling in daardie paragraaf bedoel, soortgelyke bevoegdhede en funksies het as die bevoegdhede en funksies van so 'n laasbedoelde liggaam of ten opsigte van die behoud van die openbare gesondheid in sodanige gebied of gebiede, met inbegrip van enige liggaam bedoel in artikel *sewe* van die „Volksgezondheidswet, 1919” (Wet No. 36 van 1919).

12. Die reëling en beheer van padverkeer, met inbegrip van die lisensiering en beheer van voertuie en die bestuurders van voertuie in die Transkei, maar met uitsondering van alle aangeleenthede wat in die Motortransportwet, 1930 (Wet No. 39 van 1930), of die Motorvoertuigassuransiewet, 1942 (Wet No. 29 van 1942), behandel word.

13. Arbeidsaangeleenthede in die Transkei, maar met uitsondering van alle aangeleenthede wat in die Ongevallewet, 1941 (Wet No. 30 van 1941), of die Werkloosheidsversekeringswet, 1946 (Wet No. 53 van 1946), behandel word.

14. Welsynsdienste, met inbegrip van kinderwelsyn en die administrasie van maatskaplike welsynskemas vir bejaardes, ongeskiktes en blindes, asook ongeskiktheidstoelaes en armsorg vir burgers van die Transkei in die distrikte in artikel *twee* van hierdie Wet bedoel, maar nie binne 'n gebied in die distrik Matatiele of Port St. Johns wat nie 'n Bantoegebied is nie.

15. Geboortes, sterftes en huwelike ten opsigte van burgers van die Transkei in die distrikte genoem in artikel *twee* van hierdie Wet.

16. Registrasie van kiesers en die reëling van verkiesings vir die doeleindes van hierdie Wet en aangeleenthede wat daarmee in verband staan, met inbegrip van sodanige registrasie en die reëling van sodanige verkiesings op enige plek in die Republiek buite die Transkei.

17. Die aanstelling, diensvoorwaardes, tug, aftreding, ontslag en pensioenering van openbare beamptes of werknemers van die Regering van die Transkei en in die algemeen die administrasie en beheer van departemente en aangeleenthede aan daardie Regering toegewys.

18. Bedwelkende drank in die Transkei.

19. Markte en skutte in die Transkei.

20. Vis- en wildbeskerming in die Transkei, onderworpe aan die bepaling van artikel *veertien* van die Wet op Seevisserye, 1940 (Wet No. 10 van 1940).

21. Die beheer en lisensiering van handel en besigheid in die Transkei, maar nie ook die lisensiering van handel in verband met wapens en ammunisie en ontplofbare stowwe nie.

22. Die invordering van en beheer oor alle inkomste en gelde ingevolge 'n wetsbepaling aan die Regering van die Transkei betaalbaar of uit enige ander bron afkomstig, of spesiaal deur die Staatspresident by proklamasie in die *Staatskoerant* aan die Regering van die Transkei toegewys.

23. Die oplê van strawwe vir die afdwing van 'n wet deur die Wetgewende Vergadering gemaak met betrekking tot 'n aangeleentheid wat binne 'n in hierdie Bylae vermelde klas onderwerpe val.

24. In die algemeen alle aangeleenthede wat na die oordeel van die Staatspresident en volgens sy skriftelike opdrag van 'n bloot plaaslike of private aard in die Transkei is.

Tweede Bylae.

BEPALINGS MET BETREKKING TOT PENSIOENE IN SUB-ARTIKEL (2) VAN ARTIKEL *een-en-sestig* VAN HIERDIE WET BEDOEL.

1. Vir die doeleindes van hierdie Bylae beteken—

(a) „die Pensioenwet” die Regeringsdiens-pensioenwet, 1955 (Wet No. 58 van 1955);

(b) „die weduweespensioenfonds” die fonds in artikel *een-en-sewentig* van die Pensioenwet bedoel, en het die uitdrukkings „goedgekeurde fonds” en „nuwe fonds” die betekenis onderskeidelik in artikels *sewentig* en *honderd-en-nege* van die Pensioenwet daaraan toegeskryf.

2. Behoudens die bepaling van paragraaf 3 behou elke persoon in die diens van die Regering van die Republiek—

(a) wat 'n bydraer is tot 'n pensioenfonds wat deur 'n departement van die Staatsdiens van die Republiek of 'n provinsiale administrasie geadministreer word; en

(b) wat ingevolge sub-artikel (1) van artikel *een-en-sestig* van hierdie Wet 'n beampte of werknemer van die Regering van die Transkei word,

al die regte deur hom as 'n bydraer tot so 'n fonds verkry, en bly hy onderhewig aan al die verpligtings as so 'n bydraer deur hom opgeloo, asof hy nie 'n beampte of werknemer van die Regering van die Transkei geword het nie, en die Regering van die Transkei moet vanaf die datum waarop so iemand so 'n beampte of werknemer word, aan die Regering van die Republiek 'n bedrag betaal gelyk aan die bedrag wat die Regering van die Republiek ingevolge enige wetsbepaling ten opsigte van so iemand aan so 'n pensioenfonds sou moes betaal het indien die oorplasing nie plaasgevind het nie.

3. Any person referred to in sub-section (1) of section *sixty-one* of this Act who is a contributor to a pension fund referred to in paragraph 2 may, within sixty days of the date on which he becomes an officer or employee of the Government of the Transkei or the date on which he is called upon to do so, or within such further period as the Secretary for Social Welfare and Pensions may in special circumstances allow, elect in writing to cease to contribute to the relevant pension fund, other than the widows' pension fund, and if he makes such an election his contributions to the fund concerned shall cease as from the first day of the month immediately following the month in which he makes such election.

4. A person who has in terms of paragraph 3 ceased to contribute to a pension fund shall, if for any reason he retires or is retired or discharged from the service of the Government of the Transkei, be granted the benefit to which, at the date on which he ceased so to contribute, he would, as a contributor to the pension fund concerned, have been entitled under the law governing that fund if at that date he had retired or been retired or discharged from the service of the Government of the Republic for the same reason, and such benefit shall be payable as from the date of his retirement or discharge from the service of the Government of the Transkei: Provided that if such person was a contributor to a new fund and so retires or is so retired or discharged by reason of the age he has attained or for a reason mentioned in paragraph (c), (d) or (e) of sub-section (1) of section *twenty-seven* of the Pensions Act, any benefit to which he so becomes entitled under that Act, shall not be payable from an earlier date than the date on which he attains the age at which he would have had the right to retire on pension and would have been required to be so retired if he had not become an officer or employee of the Government of the Transkei: Provided further that if he is retired or discharged for a reason mentioned in paragraph (c) or (d) of sub-section (1) of section *twenty-seven* of the Pensions Act, no period shall be added to the period of his pensionable service under the Pensions Act for the purpose of calculating any benefit to which he so becomes entitled in terms of that Act: Provided further that if such person was a contributor to the fund established by the Teachers' Pension and Fund Act, 1887 (Act No. 43 of 1887), of the Cape of Good Hope, and is retired by reason of the age he has attained, he shall, notwithstanding anything to the contrary contained in any law, be entitled to a pension calculated in accordance with the provisions of that Act and such pension shall be payable as from the date of his retirement from the service of the Government of the Transkei or the date on which he attains the age of sixty years, whichever is the later date.

5. (1) If any person to whom paragraph 4 applies and who immediately prior to the date on which he became an officer or employee of the Government of the Transkei, was a contributor to a new fund, dies before a benefit becomes due and payable to him in accordance with the provisions of that paragraph, such person shall for the purposes of sub-sections (1), (3) and (4) of section *thirty* or sub-sections (1), (3) and (4) of section *fifty* of the Pensions Act, be deemed to have died on the day preceding the day mentioned in paragraph 3.

(2) If such person dies after an annuity becomes payable to him in terms of the provisions of paragraph 4, he shall, for the purposes of sub-sections (2) and (3) of section *thirty* or sub-sections (2) and (3) of section *fifty* of the Pensions Act, be deemed to have retired or to have been retired or discharged from the public service of the Republic on an annuity as from the date on which the first-mentioned annuity became payable to him.

6. If any person to whom paragraph 3 applies and who is a contributor to the widows' pension fund, elects in terms of that paragraph to cease to contribute to an approved fund or a new fund, his contributions to the widows' pension fund shall cease as from the date from which his contributions to the relevant approved fund or new fund cease, and the provisions of section *seventy-eight* of the Pensions Act shall thereupon *mutatis mutandis* apply in respect of him as if he had been transferred to employment in respect of which he is not liable to contribute to the widows' pension fund.

7. If on the retirement or death of any person to whom paragraph 2 applies, such person or any dependant of such person becomes entitled, under any law governing a pension fund referred to in that paragraph, to a pension benefit which is payable in whole or in part out of moneys appropriated by Parliament or a Provincial Council for the purpose, the Government of the Transkei shall repay to the Consolidated Revenue Fund or the appropriate Provincial Revenue Fund, as the case may be, an amount equal to any amount which is so payable: Provided that any amount payable to revenue as defined in the Pensions Act, in terms of paragraph (iii) of the proviso to sub-section (1) of section *sixty-five* or the second proviso to sub-section (1) of section *sixty-six* of the Pensions Act in respect of such a person, shall be paid to the Government of the Transkei.

8. Any person—

- (a) who becomes an officer or employee of the Government of the Transkei in terms of sub-section (1) of section *sixty-one* of this Act;
- (b) who immediately prior to the date on which he becomes such an officer or employee was not a contributor to a pension fund referred to in paragraph 2; and
- (c) whose pension rights were immediately prior to that date governed by section *sixty-nine* of the Pensions Act,

shall, with effect from the date of his retirement or discharge from the service of the Government of the Transkei, be paid in respect of his service under the Government of the Republic, the benefit to which he would have been entitled under the said section *sixty-nine* if he had retired or been retired or discharged from the service of the Government of the Republic with effect from the date referred to in sub-paragraph (b), on the same grounds on which he retires or is retired or discharged from the service of the Government of the Transkei: Provided that if such person retires or is retired or discharged by reason of the age which he has attained or for a reason mentioned in paragraph (c), (d) or (e) of

3. 'n In sub-artikel (1) van artikel *een-en-sestig* van hierdie Wet bedoelde persoon wat 'n bydraer is tot 'n pensioenfonds in paragraaf 2 bedoel, kan binne sestig dae vanaf die datum waarop hy 'n beamppte of werknemer van die Regering van die Transkei word of die datum waarop hy daartoe aangesê word, of binne so 'n verdere tydperk as wat die Sekretaris van Volkswelsyn en Pensioene onder spesiale omstandighede toelaat, skriftelik kies om op te hou om tot die betrokke pensioenfonds (maar nie die weduweespensioenfonds nie) by te dra, en indien hy aldus kies, hou hy op om tot die betrokke fonds by te dra vanaf die eerste dag van die maand onmiddellik na die maand waarin hy die keuse uitoefen.

4. Aan iemand wat ingevolge paragraaf 3 opgehou het om tot 'n pensioenfonds by te dra, moet, indien hy om enige rede aftree of afgedank of ontslaan word uit die diens van die Regering van die Transkei, die voordeel toegeken word waarop hy, op die datum waarop hy opgehou het om aldus by te dra, ingevolge die wetsbepalings op bedoelde fonds geregtig sou gewees het indien hy op daardie datum om dieselfde rede uit die diens van die Regering van die Republiek afgetree het of afgedank of ontslaan was, en bedoelde voordeel is betaalbaar vanaf die datum van sy uitdienstreding of ontslag uit die diens van die Regering van die Transkei: Met dien verstande dat indien so iemand 'n bydraer tot 'n nuwe fonds was en aldus aftree of afgedank of ontslaan word op grond van die leeftyd wat hy bereik het of om 'n rede in paragraaf (c), (d) of (e) van sub-artikel (1) van artikel *sewe-en-twintig* van die Pensioenwet vermeld, 'n voordeel waarop hy ingevolge daardie Wet aldus geregtig word, nie betaalbaar is nie vanaf 'n vroeër datum as die datum waarop hy die leeftyd bereik waarop hy die reg sou gehad het om af te tree en met pensioen afgedank sou moes gewees het indien hy nie 'n beamppte of werknemer van die Regering van die Transkei geword het nie: Met dien verstande voorts dat indien hy om 'n rede in paragraaf (c) of (d) van sub-artikel (1) van artikel *sewe-en-twintig* van die Pensioenwet afgedank of ontslaan word, geen tydperk by die tydperk van sy pensioengewende diens ingevolge die Pensioenwet bygereken word by die berekening van enige voordeel waarop hy aldus ingevolge daardie Wet geregtig word nie: Met dien verstande voorts dat indien so iemand 'n bydraer was tot die fonds ingestel deur die „Teachers' Pension and Fund Act, 1887” (Wet No. 43 van 1887), van die Kaap die Goeie Hoop, en op grond van die leeftyd wat hy bereik het, afgedank word, hy ondanks andersluidende wetsbepalings geregtig is op 'n pensioen bereken ooreenkomstig die bepalinge van daardie Wet, en so 'n pensioen is betaalbaar vanaf die datum van sy uitdienstreding uit die diens van die Regering van die Transkei of die datum waarop hy die leeftyd van sestig jaar bereik, watter ook al die latere datum is.

5. (1) Indien iemand op wie paragraaf 4 van toepassing is, en wat onmiddellik voor die datum waarop hy 'n beamppte of werknemer van die Regering van die Transkei geword het 'n bydraer tot 'n nuwe fonds was, te sterwe kom voordat 'n voordeel ooreenkomstig die bepalinge van daardie paragraaf aan hom verskuldig en betaalbaar word, word so iemand by die toepassing van sub-artikels (1), (3) en (4) van artikel *dertig* of sub-artikels (1), (3) en (4) van artikel *vyftig* van die Pensioenwet geag op die dag wat die in paragraaf 3 genoemde dag voorafgaan, te sterwe te gekom het.

(2) Indien so iemand te sterwe kom nadat 'n jaargeld ingevolge die bepalinge van paragraaf 4 aan hom betaalbaar word, word hy by die toepassing van sub-artikels (2) en (3) van artikel *dertig* of sub-artikels (2) en (3) van artikel *vyftig* van die Pensioenwet geag met 'n jaargeld uit die Staatsdiens van die Republiek af te getree het of afgedank of ontslaan te gewees het vanaf die datum waarop eersbedoelde jaargeld aan hom betaalbaar geword het.

6. Indien iemand op wie paragraaf 3 van toepassing is, en wat 'n bydraer tot die weduweespensioenfonds is, ingevolge daardie paragraaf kies om op te hou om tot 'n goedgekeurde fonds of 'n nuwe fonds by te dra, hou hy op om tot die weduweespensioenfonds by te dra vanaf die datum van wanneer sy bydraes tot die toepaslike goedgekeurde fonds of nuwe fonds ophou, en daarop is die bepalinge van artikel *agt-en-sewentig* van die Pensioenwet *mutatis mutandis* ten opsigte van hom van toepassing asof hy oorgeplaas was na diens ten opsigte waarvan hy nie verplig is om tot die weduweespensioenfonds by te dra nie.

7. Indien by die uitdienstreding of afsterwe van 'n persoon op wie paragraaf 2 van toepassing is, daardie persoon of 'n afhanklike van daardie persoon ingevolge 'n wetsbepaling op 'n in daardie paragraaf bedoelde pensioenfonds geregtig word op 'n pensioenvoordeel wat in geheel of ten dele betaalbaar is uit gelde deur die Parlement of 'n provinsiale raad vir die doel bewillig, moet die Regering van die Transkei aan die Gekonsolideerde Inkomstefonds of die toepaslike Provinsiale Inkomstefonds, na gelang van die geval, 'n bedrag terugbetaal gelyk aan enige bedrag aldus betaalbaar: Met dien verstande dat enige bedrag ingevolge paragraaf (iii) van die voorbehoudsbepaling by sub-artikel (1) van artikel *vyf-en-sestig* of die tweede voorbehoudsbepaling by sub-artikel (1) van artikel *ses-en-sestig* van die Pensioenwet ten opsigte van so 'n persoon aan inkomste, soos in die Pensioenwet omskryf, betaalbaar, aan die Regering van die Transkei betaal moet word.

8. Aan iemand wat—

- (a) ingevolge sub-artikel (1) van artikel *een-en-sestig* van hierdie Wet 'n beamppte of werknemer van die Regering van die Transkei word;
- (b) onmiddellik voor die datum waarop hy so 'n beamppte of werknemer word, nie 'n bydraer tot 'n in paragraaf 2 bedoelde pensioenfonds was nie; en
- (c) ten opsigte van sy pensioenregte onmiddellik voor daardie datum aan artikel *nege-en-sestig* van die Pensioenwet onderhewig was,

word, met ingang vanaf die datum van sy uitdienstreding of ontslag uit die diens van die Regering van die Transkei, ten opsigte van sy diens onder die Regering van die Republiek die voordeel betaal waarop hy ingevolge bedoelde artikel *nege-en-sestig* geregtig sou gewees het indien hy met ingang van die datum in sub-paragraaf (b) bedoel uit die diens van die Regering van die Republiek afgetree het of afgedank of ontslaan was op dieselfde gronde as dié waarop hy uit die diens van die Regering van die Transkei uittree of afgedank of ontslaan word: Met dien verstande dat indien so iemand uittree of afgedank of ontslaan word op grond van die leeftyd wat hy bereik het of om 'n rede in paragraaf (c), (d) of (e) van sub-

sub-section (1) of section *twenty-seven* of the Pensions Act, such benefit shall not be payable from an earlier date than the date on which he attains the age of fifty-five years.

9. (1) There may be paid to the dependants of a person to whom paragraph 8 applies, in respect of his service under the Government of the Republic—

(a) if he dies prior to his retirement or discharge from the service of the Government of the Transkei, a gratuity not exceeding the gratuity which would have been payable to the said dependants in terms of section *sixty-nine* of the Pensions Act, had such person died on the last day of his service under the Government of the Republic; or

(b) if he dies after he has become entitled to an annuity in terms of the said section *sixty-nine* as applied by paragraph 8, a gratuity equal to the amount by which the gratuity which could have been paid to his dependants in terms of item (a) had he died on the last day of his service under the Government of the Republic, exceeds the amount of the pension payments which have been made to him up to the time of his death.

(2) The provisions of sub-section (3) of section *thirty* of the Pensions Act shall *mutatis mutandis* apply in respect of any gratuity payable in terms of this paragraph.

artikel (1) van artikel *sewe-en-twintig* van die Pensioenwet bedoel, so 'n voordeel nie vanaf 'n vroeër datum betaal word as die datum waarop hy die leeftyd van vyf-en-veertig jaar bereik nie.

9. (1) Daar kan aan die afhanklikes van 'n persoon op wie paragraaf 8 van toepassing is, ten opsigte van sy diens onder die Regering van die Republiek—

(a) indien hy voor sy uitdienststreding of ontslag uit die diens van die Regering van die Transkei te sterwe kom, 'n gratifikasie betaal word hoogstens gelyk aan die gratifikasie wat ingevolge artikel *nege-en-sestig* van die Pensioenwet aan bedoelde afhanklikes betaalbaar sou gewees het indien dié persoon op die laaste dag van sy diens onder die Regering van die Republiek te sterwe gekom het; of

(b) indien hy te sterwe kom nadat hy ingevolge bedoelde artikel *nege-en-sestig*, soos deur paragraaf 8 toegepas, op 'n jaargeld geregtig geword het, 'n gratifikasie betaal word gelyk aan die bedrag waarmee die gratifikasie wat ingevolge item (a) aan sy afhanklikes betaal sou kon geword het indien hy op die laaste dag van sy diens onder die Regering van die Republiek te sterwe gekom het, meer is as die bedrae tot die dag van sy dood by wyse van pensioen aan hom betaal.

(2) Die bepalings van sub-artikel (3) van artikel *dertig* van die Pensioenwet is *mutatis mutandis* van toepassing ten opsigte van 'n gratifikasie ingevolge hierdie paragraaf betaalbaar.