DEPARTMENT OF THE PRIME MINISTER

No. 735. 28 April 1976.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:

ACT

To grant self-government in accordance with the Paternal Law of 1872 to the citizens of the "Rehoboth Gebiet" within the territory of South West Africa; for that purpose to provide for the establishment of a Kaptein's Council and a Legislative Council for the said "Gebiet"; to determine the powers and functions of the said councils; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)

(Assented to 6 April 1976.)

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

Preamble

PART I

PREAMBLE

WHEREAS it is the desire of the citizens of the "Rehoboth Gebiet" that self-government within the territory of South West Africa be granted to them;

AND WHEREAS the citizens of the said "Gebiet" have great respect for their own traditions and the management institutions of their ancestors as embodied in their paternal laws;

AND WHEREAS it is desirable to grant self-government to the people of Rehoboth on the basis of the proposals by the Baster Advisory Council of Rehoboth and at the request of the said people and without prejudicing any further constitutional development of the territory of South West Africa, to establish on such basis and at such request a government for Rehoboth that –

will maintain law and order in Rehoboth and will ensure justice to all;

will promote the material and spiritual well-being of Rehoboth and its inhabitants;

will protect and develop their own traditions and culture;

will propagate the ideals of the Christian civilization; and

will strive after peace with and goodwill to the other inhabitants of the territory of South West Africa:
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
GRANT OF SELF-GOVERNMENT TO REHOBOTH AND REINSTITUTION OF THE PROVISIONS OF THE PATERNAL LAW OF 31 JANUARY 1872

1. The "Rehoboth Gebiet", as described in section 6, shall under the name Rehoboth be a self-governing territory within the territory of South West Africa in accordance with the provisions of this Act.

2. (1) There shall be a Kaptein's Council constituted in accordance with the provisions of this section.
(2) At the head of the Kaptein's Council shall be a citizen of Rehoboth elected by the enfranchised citizens of Rehoboth as Kaptein and installed as such and who shall hold office for a period of five years, unless he resigns or is by illness or other exceptional circumstances prevented from continuing to hold office: Provided that a Kaptein shall on expiration of his period of office be eligible for re-election.
(3) The Kaptein shall be assisted by two citizens of Rehoboth designated by the Kaptein and who shall hold office during his pleasure and, with him, constitute the Kaptein's Council.
(4) In the event of the Kaptein's death or if he resigns or is prevented from continuing to hold office, another Kaptein shall as soon as is practicable be elected by the enfranchised citizens of Rehoboth and installed as such.
(5) Until such time as a new Kaptein has been elected and installed, the member of the Kaptein's Council having the longest continuous service shall act as Kaptein, and if serving members have equal continuous service, the eldest of them shall so act.
(6) The members of the Kaptein's Council designated by the Kaptein shall for administration purposes be at the full-time disposal of the Kaptein, and if any such member will for urgent reasons be absent from office, the Kaptein shall beforehand be informed thereof, and he may appoint an acting member for such period of absence.

3. (1) The enfranchised citizens of Rehoboth shall elect annually, during the month of January, a Legislative Council consisting of six members, who shall hold office until a new Legislative Council has been elected.
(2) A member of the Kaptein's Council may be present at the election of members of the Legislative Council to prevent any irregularities, but a member present shall in no way interfere with the lawful conduct of the election.
(3) The members of the Legislative Council shall choose from among themselves a Speaker, who shall in his discretion and as often as he deems it necessary, convene a meeting of the Legislative Council.
(4) The Legislative Council shall through the Speaker consult with the citizens of Rehoboth, promote in general and subject to the provisions of section 12 the interests of the citizens and also convey the wishes and desires of the citizens to the Kaptein's Council.

4. (1) The Legislative Authority of Rehoboth shall consist of the Kaptein's Council and the Legislative Council.
(2) Bills shall be drafted by the Kaptein's Council and transmitted in writing to the Speaker.
(3) A bill shall not be transmitted to the Speaker unless it has been accepted by the Kaptein's Council unanimously or, in the event of a difference of opinion, by a majority of votes.
(4) All discussions at meetings of the Kaptein's Council shall be secret, and any breach of secrecy shall be punishable by a fine not exceeding R10 as well as a ground for dismissing the member concerned.

(5) On receipt of a bill the Speaker shall forthwith convene a meeting of the Legislative Council to consider the bill.

(6) On acceptance of a bill by the Legislative Council the Speaker shall return it, duly certified, to the Kaptein, who shall thereupon further deal with it in accordance with the provisions of this Act.

(7) (a) The Legislative Council shall within sixty days after the receipt of a bill by the Speaker either accept it or advise the Kaptein's Council through the Speaker that it has not been accepted.

(b) If the Legislative Council fails to comply with the provisions of paragraph (a) it shall be deemed to have accepted the bill in question and the Kaptein shall deal with it as if it had been certified in accordance with the provisions of subsection (6).

(8) (a) If the Legislative Council does not accept a bill and has in accordance with subsection (7) (a) advised the Kaptein's Council thereof, the Kaptein may convene a joint meeting of the Kaptein's Council and the Legislative Council, at which, after discussion, the members of the Legislative Council and of the Kaptein's Council shall vote on the bill.

(b) If the bill is accepted unanimously or by a majority of votes, it shall be dealt with in accordance with subsection (6).

(9) At a voting by the Kaptein's Council and the Legislative Council in accordance with the provisions of subsection (8), the Kaptein shall, in the event of an equality of votes, have a casting vote in addition to his deliberative vote.

(10) (a) If the Kaptein's Council and the Legislative Council reject a bill at a joint meeting convened in terms of the provisions of subsection (8) (a) the Kaptein may, if he wishes to proceed with the bill, cause the voters to be notified of the dispute, and cause a meeting of voters, including members of the Kaptein's Council and of the Legislative Council, to be convened.

(b) The dispute shall be discussed at such meeting and decided by putting it to the vote.

(c) If the bill is accepted unanimously or by a majority of votes, it shall be dealt with in accordance with subsection (6).

(11) At a voting in terms of the provisions of subsection (10) each voter shall have one vote, but the members of the Kaptein's Council designated by the Kaptein shall each have two votes, and the Kaptein a number of votes equal to one-tenth of the total number of other votes cast.

5. (1) (a) Every person born of a citizen or citizens of Rehoboth shall also be a citizen of Rehoboth.

(b) In the case of difference of opinion on the question whether or not any person is a citizen of Rehoboth, the decision of the Kaptein's Council thereon shall be final.

(2) (a) Any person who is married to a citizen of Rehoboth may present himself to the Kaptein's Council and apply to be accepted as a citizen of Rehoboth.

(b) If he undertakes to obey the laws of Rehoboth and is known to the members of the Kaptein's Council, he may in the presence of the Speaker be accepted by the Kaptein's Council as a citizen of Rehoboth.

Citizenship.
(c) if the applicant undertakes to obey the said laws but is not known to the members of the Kaptein's Council, it shall advise the Speaker of the application, and he shall make it known for a period of at least six months in such manner as he may deem fit, but also stating in such notification that objections to the application may be lodged with the Kaptein's Council.

(d) After the expiration of the said period the Kaptein's Council may, after consideration of objections, if any, grant or refuse the application in the presence of the Speaker.

PART II
GENERAL PROVISIONS

6. Rehoboth shall consist of the district of Rehoboth as defined in Annexure G to Government Notice No. R1148 of 30 June 1972, but the Government of Rehoboth shall not be prevented from negotiating for an extension of the boundaries of Rehoboth.

7. The Kaptein's Council may in consultation with the Legislative Council design and register a flag for Rehoboth, which shall be flown at the places and on the occasions determined by the Kaptein's Council.

8. The Kaptein's Council may in consultation with the Legislative Council accept an official National Anthem for Rehoboth.

9. The official languages of Rehoboth shall be English and Afrikaans.

10. (1) The first election of a Kaptein and members of the Legislative Council shall take place at such place or places and times and in such manner as may be determined by the Minister after consultation with the Baster Advisory Council of Rehoboth, and elections thereafter shall take place at such places and times and in such manner as may be determined by the Kaptein's Council subject to the other provisions of this Act: Provided that the first election of members of the Legislative Council shall take place not less than forty-two days after the first election of the Kaptein.

(2) A candidate for the office of Kaptein or for the Legislative Council shall be nominated by the submission to the Magistrate of Rehoboth not less than thirty days prior to the date of the election, and at a time and place determined by the Magistrate, of a written document signed by not less than ten citizens entitled to vote and in which they intimate that they support the candidature of that candidate and he consents under his hand to his nomination.

(3) On nomination the candidate, or somebody on his behalf, shall deposit an amount of R200, if he is a candidate for the office of Kaptein, and R1000, if he is a candidate for the Legislative Council, and if a candidate is not elected and does not obtain at least a number of votes equal to one-fifth of the number of votes cast in favour of the candidate who obtained the greatest number of votes, his deposit shall be forfeited and paid into the Rehoboth Revenue Fund.

(4) (a) Provision shall be made for the holding of elections by secret ballot, and every citizen of Rehoboth, whether male or female, over the age of 18 years, who has full citizenship rights in accordance with the customs of the Rehoboth Baster Community, shall have the vote.

(b) In the case of difference of opinion on the question whether or not any person has full citizenship rights, the decision of the Kaptein's Council thereon shall be final.
(5) Every voter shall be entitled to cast one vote in respect of each vacancy for which he may vote, but only one vote for a particular candidate, and in the case of an election of members of the Legislative Council the voter shall cast one vote in respect of each vacancy for which he may vote.

(6) Any determination in terms of subsection (1) or (7) in connection with the places and times at which and the manner in which an election of a Kaptein or members of the Legislative Council shall be held and any publications in connection with any such election shall be published in the Official Gazette of Rehoboth by the magistrate of Rehoboth not less than forty-two days prior to the date on which such election is to take place.

(7) When an election of members of the Legislative Council is to be held but is for any reason not held, the Minister shall cause an election to take place at any time and at the place and in the manner determined by him, and any such election shall be deemed to have taken place under the other appropriate provisions of this section.

11. (1) A government for Rehoboth shall come into being on the date of the first installation in office of the Kaptein and the other members of the Kaptein's Council and of the members of the Legislative Council by or on behalf of the State President.

(2) The Kaptein, a member of the Kaptein's Council and a member of the Legislative Council shall, before assuming duty and at a public function, make and subscribe to a solemn declaration in the following form:

I, .............................................................................................................................., hereby solemnly declare before everybody here present that I will hold my office as.............................................................................................................................of Rehoboth with honour and dignity, will respect and uphold the Rehoboth Self-government Act, 1976, and all other laws applicable in Rehoboth, will be true and faithful in my office and will not divulge directly or indirectly any matters demanding secrecy or entrusted to me under secrecy and will perform the duties of my office conscientiously and to the best of my ability.

12. The executive government of Rehoboth in regard to all matters in respect of which the Legislative Authority of Rehoboth is in terms of this Act empowered to make laws shall vest in the Kaptein's Council.

13. Subject to the provisions of this Act the administrative control, powers, authorities and functions in relation to all matters in respect of which the Legislative Authority of Rehoboth is in terms of this Act empowered to make laws and which immediately prior to the date on which a government for Rehoboth comes into being in terms of section 11 (1), were vested in or exercised by the State President or the Administrator or the Executive Committee or the Administrator-in-Executive Committee of the territory of South West Africa or the Magistrate of Rehoboth in his capacity as Kaptein, shall from the said date be vested in the Kaptein's Council: Provided that nothing in this Act contained shall be construed as preventing any department of State, institution, board, body or person under the control of the Government of the Republic or the administration of the territory of South West Africa 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 or administration and the Kaptein's Council.

14. (1) The Kaptein or, in his temporary absence, the member of the Kaptein's Council nominated by him for the purpose, shall preside at meetings of the Kaptein's Council.
(2) The Kaptein shall allocate the powers, duties and functions to be exercised or performed in respect of the various matters set out in the Schedule among different departments, and may in his discretion assign and allocate the administration of the different departments to the several members of the Kaptein's Council and may, if necessary, after consultation with the members of the Kaptein's Council concerned, reorganize such departments with a view to better administration.

15. All rights, powers, authorities, duties, obligations and functions which immediately prior to the date on which a government for Rehoboth came into being in terms of section 11 (1), were under any law or ordinance vested in any authority or person in the Republic or the territory of South West Africa, other than an authority or person referred to in section 13, and which relate to matters in respect of which the Legislative Authority of Rehoboth is in terms of this Act empowered to make laws, shall as from the said date vest in the corresponding authority or person exercising or performing similar rights, powers, authorities, duties, obligations and functions in Rehoboth as from that date.

16. (1) Subject to the provisions of this Act the Kaptein's Council and the Legislative Council shall have the power -
(a) to make laws, not inconsistent with this Act, in respect of all matters set out in the Schedule; and
(b) to provide in any such law for an amendment or the repeal of any law, including any Act of Parliament and any ordinance of the Legislative Assembly of the territory of South West Africa, in so far as it relates to any such matter and applies in Rehoboth or to any citizen of Rehoboth, whether such citizen is or is resident within or outside Rehoboth, but within the territory of South West Africa.

(2) Where the Legislative Authority of Rehoboth is empowered to make laws applicable in any area outside Rehoboth or in respect of citizens of Rehoboth who are or are resident outside Rehoboth, 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 within the territory of South West Africa, 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 an ordinance of the Legislative Assembly of the territory of South West Africa, but excluding any law made by a competent authority in Rehoboth) and which relates to any matter referred to in subsection (1) shall apply in Rehoboth or in relation to any citizen of Rehoboth in respect of whom the Legislative Authority of Rehoboth is empowered to make laws, in so far as that matter is concerned.

17. (1) Every bill accepted or deemed to have been accepted in terms of section 4 (6), (7), (8) or (10), as the case may be, shall forthwith, together with such explanatory observations as may be necessary to indicate the scope, effect and reasons for the accepting thereof, be transmitted to the Minister for presentation to the State President for his assent.

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

(b) If a bill is assented to by the State President, one copy of the bill shall be signed by him.
18. (1) The Kaptein's Council shall cause every law to which assent has in terms of section 17 been given to be published in the Official Gazette of Rehoboth.
   (2) A law shall come into operation on the date of its publication in the Official Gazette of Rehoboth, 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 in terms of section 17 and promulgated in the Official Gazette of Rehoboth shall, subject to the provisions of this Act, have the force of law.

19. (1) As soon as possible after a law has been assented to by the State President the Kaptein shall cause fair copies of the law, in each of the two official languages, to be enrolled of record in the register of the registrar of the South-West Africa Division of the Supreme Court of South Africa.
   (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 commencement of any law shall not be affected by failure to cause copies so to be enrolled.

20. (1) The South-West Africa Division of the Supreme Court of South Africa shall have jurisdiction in all matters in which the validity of a law of the Legislative Authority of Rehoboth shall come into question.
   (2) No magistrate's court or other inferior court shall be competent to pronounce upon the validity of any law of the said Legislative Authority.

21. (1) Subject to the provisions of this Act all laws which immediately prior to the commencement of this Act were in force in Rehoboth shall remain in force until repealed or amended by the competent authority.
   (2) No person who is a citizen of Rehoboth shall by reason only of the provisions of section 5 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.
   (3) The Republic shall not regard a citizen of Rehoboth as an alien in the Republic or in the territory of South West Africa, and shall afford him for all foreign purposes full protection according to international law.

22. The Legislative Council 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 its 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.

23. (1) From the date of commencement of this Act the ownership and control of all movable and immovable property in Rehoboth the ownership or control of which is on that date vested in the Government of the Republic or the administration of the territory of South West Africa or the Rehoboth Baster Community and which relates to matters in respect of which the Legislative Authority of Rehoboth is empowered to make laws, shall vest in the Government of Rehoboth.
   (2) The said property shall be transferred to the Government of Rehoboth without payment of transfer duty, stamp duty or any other fee or charge, but subject to any existing right, charge, obligation or trust on or over such property and subject also to the provisions of this Act.
(3) The Registrar of Deeds concerned shall upon production to him of the title deed to any immovable property mentioned in subsection (1) endorse such title deed to the effect that the immovable property therein described is vested in the Government of Rehoboth and shall make the necessary entries in his registers, and thereupon the said title deed shall serve and avail for all purposes as proof of the title of the Government of Rehoboth to the said property.

24. (1) Notwithstanding anything to the contrary contained in any law in force in Rehoboth no person, other than a citizen of Rehoboth or the Rehoboth Investment and Development Corporation, shall, without the prior approval of the Minister and the Kaptein's Council, acquire any land or any interest in land in Rehoboth.

(2) The acquisition of any land or any interest in land contrary to the provisions of subsection (1) shall be invalid.

25. (1) There shall be a Rehoboth Revenue Fund, into which shall be paid all revenue raised by or accruing to the Government of Rehoboth.

(2) As from a date determined by the Minister there shall be paid into the Rehoboth Revenue Fund -

(a) all moneys payable -

(i) by any citizen of Rehoboth in respect of taxes and levies imposed by or in terms of any law of Rehoboth, except in so far as the law concerned determines otherwise;

(ii) in terms of any Act of Parliament or any ordinance of the Legislative Assembly of the territory of South West Africa imposing any tax on incomes, profits or gains (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 Rehoboth who is ordinarily resident in Rehoboth or by any person who carries on business in Rehoboth or by any company which is recognized as a private company in terms of the relevant Act or ordinance and which carries on business in Rehoboth, on so much of the incomes, profits or gains of that person or company as he or it acquired in Rehoboth;

(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 Rehoboth who at the time of his death was ordinarily resident in Rehoboth or was the owner of property therein;

(iv) in terms of any provision, resolution or practice, to the fund of the Rehoboth Baster Community, and all moneys standing to the credit of that fund;

(b) all revenue and income, including licence fees, taxes, fees of office, fines, forfeitures, rents and other moneys deriving from or in the course of the administration of those matters in respect of which the Legislative Authority of Rehoboth is in terms of this Act empowered to make laws or from any other sources of revenue and income determined by the State President by proclamation in the Gazette;

(c) the balance on hand in the Special Development Fund for Rehoboth on a date determined by the Minister;

(d) an annual grant to be paid from the State Revenue Fund of an amount approved by the Minister of Finance of the Republic after consultation with the Auditor-General and corresponding to the expenditure
by the Government of the Republic in respect of any matters the administration of which is in accordance with this Act transferred to the Kaptein's Council, during the financial year preceding the date of the transfer, less:

(i) the income from existing sources of revenue as determined by the Minister in consultation with the Minister of Finance of the Republic, which accrued to the State Revenue Fund during the said financial year and which in terms of this Act will accrue to the Rehoboth 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 whose services are in terms of the provisions of this Act made available to the Government of Rehoboth;

(c) such an additional sum of money as may be appropriated annually by Parliament for payment out of the State Revenue Fund for a specified purpose or for the proper performance generally of services and duties entrusted to the Kaptein's Council in terms of this Act.

(3) In respect of the period between the date of commencement of this Act and the appropriate date determined under subsection (2) all expenditure in connection with those matters in respect of which the Legislative Authority of Rehoboth is empowered to make laws, shall be met from the source from which it would have been met had this Act not been passed.

26. The Rehoboth Revenue Fund shall be appropriated by the Legislative Authority of Rehoboth for the administration of Rehoboth generally, or, in the case of moneys paid over by the Government of the Republic for a particular purpose, then for such purpose, in the manner prescribed by this Act.

27. Save as is otherwise provided in this Act no moneys shall be withdrawn from the Rehoboth Revenue Fund except under appropriation made by law: Provided that until such appropriation has been made, and for a period not exceeding three months after the commencement of a financial year, moneys may be withdrawn from that fund by the Kaptein with the approval of the other members of the Kaptein's Council without such appropriation in order to meet expenditure on services in respect of which there was an appropriation in the immediately preceding financial year, or in respect of which provision is made by law.

28. (1) The Kaptein may, with the approval of the other members of the Kaptein's Council, by special warrant under his hand authorize the issue of moneys from the Rehoboth Revenue Fund -

(a) to defray unforeseen expenditure of a special nature which is not provided for in an appropriation law and which cannot without serious detriment to the public interest be postponed until adequate provision can be made therefor by the Legislative Authority of Rehoboth; or

(b) to meet an excess on any head of expenditure in an appropriation law.

(2) The total sum which the Kaptein may authorize under subsection (1) shall at no time exceed two hundred thousand rand, and the relative expenditure shall be submitted to the Kaptein's Council and the Legislative Council for appropriation at the next ensuing several sessions.
29. No withdrawal shall be made from the Rehoboth Revenue Fund, except in pursuance of a warrant signed by the Kaptein.

30. The annual estimates of revenue and expenditure for Rehoboth, having been prepared by the Kaptein's Council, shall be submitted to the Minister, who shall in consultation with the Minister of Finance of the Republic determine the additional amount, if any, required to be appropriated by Parliament towards the expenditure of the Government of Rehoboth for the ensuing financial year, and shall thereafter be submitted by the Kaptein to the Legislative Council for appropriation.

31. Unless and until otherwise provided for by the Legislative Authority of Rehoboth the Auditor-General of the Republic shall examine, enquire into and audit the accounts of the Government of Rehoboth and all statutory bodies in Rehoboth, as well as those of all accounting officers and all persons entrusted with the receipt, custody, expenditure or issue of public moneys, stamps, securities or stores, and the provisions of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), and the instructions, rules and regulations in terms of section 38, 39, 40 or 51 thereof shall govern the administration and control of the Rehoboth 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 instructions, rules or regulations made 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 any function to be performed, the relevant provision shall be construed as referring to the Legislative Authority of Rehoboth, the Kaptein or the appropriate member of the Kaptein's Council, Secretary or official of Rehoboth, as the case may be.

32. (1) Notwithstanding anything in this Act contained every lawfully constituted court having jurisdiction to hear criminal or civil cases of whatever nature or scope in Rehoboth, or having power of review or of hearing appeals from inferior courts in Rehoboth on the date on which the Government of Rehoboth comes into being, shall continue to exist until altered or disestablished by the authority having power to do so.

(2) The power conferred on a Minister or an officer in terms of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), to establish or disestablish a magistrate's court or to appoint a judicial officer or other officer thereto shall vest in the Kaptein or, if the administration of courts has been entrusted to another member of the Kaptein's Council, in such member, or in the corresponding officer of the Government of Rehoboth, as the case may be.

(3) At the coming into being of the Government of Rehoboth the administration and control of the magistrate's court in Rehoboth established in terms of the Magistrates' Court Act, 1944, and the Basterhof shall vest in the Kaptein's Council.

(4) The jurisdiction, powers, duties and functions of the Basterhof or of any inferior court established by the competent authority of Rehoboth in terms of any law made by the Legislative Authority of Rehoboth in pursuance of any powers conferred by this Act, or of any judicial officer appointed thereto shall not exceed the jurisdiction, powers, duties and functions of the magistrate's court established under the Magistrates' Courts
Act, 1944, in Rehoboth or, as the case may be, a judicial officer appointed in respect of the last-mentioned magistrate's court, and any proceedings in the Basterhof or the first-mentioned inferior court or before any such judicial officer thereof, including proceedings in respect of any law made by the Legislative Authority of Rehoboth, shall for the purposes of any law in force in the territory of South West Africa be deemed to be proceedings in an inferior court, or, as the case may be, before a judicial officer thereof: Provided that the Attorney-General of the territory of South West 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 Rehoboth, and thereupon the provisions of any applicable law shall mutatis mutandis apply as if the direction had been given under section 59 (6) of the Criminal Procedure Ordinance, 1963 (Ordinance No. 34 of 1963), of the territory of South West Africa.

(5) Any law made by the Legislative Authority of Rehoboth in respect of inferior courts may, subject to the provisions of this section, provide for an amendment or the repeal of the Magistrates' Courts Act, 1944, or of any provisions which may relate to the Basterhof.

(6) Any proceedings under any law of Rehoboth may, in so far as such law applies to citizens of Rehoboth who are or are resident outside Rehoboth but within the territory of South West Africa, be instituted against such citizen in any appropriate court in the area in which such citizen is or is resident.

(7) Any amount recovered by the Government of the Republic or the administration of the territory of South West Africa or the Government of Rehoboth in pursuance of proceedings before the Basterhof or any inferior court referred to in subsection (4) or before any other court by virtue of the provisions of subsection (6), 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 Authority of Rehoboth or in respect of any revenue accruing to the Rehoboth Revenue Fund, into the Rehoboth Revenue Fund; and

(b) in any other case, into the Revenue Fund of the territory of South West Africa,

and any amount so recovered by way of any criminal penalty imposed shall be paid, if the proceedings were heard before the Basterhof or any other inferior court in Rehoboth or before any other court by virtue of the provisions of subsection (6), into the Rehoboth Revenue Fund, and, in any other case, into the Revenue Fund of the territory of South West Africa.

33. (1) A reference in any law to a prison established or deemed to have been established in terms of the Prisons Act, 1959 (Act No. 8 of 1959) (hereinafter referred to as a prison of the Republic), shall be construed as including a reference to a prison which has been established by an authority of Rehoboth in terms of the said Act or a law of Rehoboth (hereinafter referred to as a Rehoboth prison).

(2) A convicted person who has been sentenced to imprisonment and is still liable to serve the sentence imposed or part thereof -

(a) may, if he is detained in a prison of the Republic, be transferred on the authority of the Minister of Prisons of the Republic and with the concurrence of the Kaptein or responsible member of the Kaptein's Council from that prison to a Rehoboth prison indicated by the said Kaptein or member;

(b) may, if he is detained in a Rehoboth prison, be transferred on the authority of the Kaptein or responsible member of the Kaptein's Council and with the con-
currence of the Minister of Prisons of the Republic from that prison to a prison of the Republic indicated by the said Minister,

and thereupon such person shall be detained in the prison to which he has been transferred and be dealt with in every respect as if, and be subject to the laws to which he would have been subject if, he had been received in the last-mentioned prison in terms of the said sentence.

(3) From the date referred to in section 11 (1) a prison in Rehoboth shall be deemed to have been established by the authority of Rehoboth concerned.

34. (1) All officers and employees of the Rehoboth Baster Community and all citizens of Rehoboth in the employ of the Government of the Republic or the administration of the territory of South West Africa employed in Rehoboth in connection with matters in respect of which the Legislative Authority of Rehoboth is in terms of this Act empowered to make laws, shall become officers and employees of the Government of Rehoboth from a date determined by the Minister: Provided that every person who was in the employ of the Government of the Republic or of the administration of the territory of South West Africa immediately prior to the date on which he so became an officer or employee of the Government of Rehoboth and who contributed to a pension fund, provident fund or pension scheme administered by a department of the Public Service of the Republic shall, as long as he remains an officer or employee of the Government of Rehoboth, retain all the rights which he acquired as a contributor to such pension fund, provident fund or pension scheme and remain subject to all the liabilities which he incurred as such contributor, as if he did not become an officer or employee of the Government of Rehoboth.

(2) The salaries and allowances of officers and employees referred to in subsection (1) and any pension contributions previously payable by the Government of the Republic or the administration of the territory of South West Africa in respect of them to any pension fund, provident fund or pension scheme referred to in subsection (1), shall from the date mentioned in section 25 (2) be paid by the Government of Rehoboth.

35. (1) The Minister may, subject to the laws relating to the Public Service of the Republic, second such officers and employees of the Public Service of the Republic as may be necessary to assist the Kaptein's Council in the administration of Rehoboth.

(2) Such officers and employees shall —
(a) in all respects remain subject to the laws relating to the Public Service of the Republic; and
(b) be paid by the Government of the Republic.

(3) The secondment and the termination of the secondment of such officers and employees shall be effected after consultation with the Kaptein's Council, but they shall be replaced gradually by citizens of Rehoboth in accordance with arrangements made by the Government of the Republic and the Kaptein's Council.

(4) The provisions of subsections (1), (2) and (3) shall mutatis mutandis apply in respect of officers and employees of the administration of the territory of South West Africa, and in such application any reference in the said subsections to
(a) the Minister, shall be construed as a reference to the Administrator of the said territory;
(b) the laws relating to the Public Service of the Republic, shall be construed as a reference to the laws governing the conditions of service of the said officers and employees; and
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(c) the Government of the Republic, shall be construed as a reference to the administration of the said territory.

36. Subject to the provisions of section 35 and until such time as the Legislative Authority of Rehoboth otherwise prescribes, all powers in relation to the appointment, salaries, allowances, discipline, retirement, discharge and other conditions of service of officers and employees shall be vested in the Kaptein's Council.

37. (1) Any claim against the Government of Rehoboth 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 Rehoboth 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 subsection (1) the Kaptein or the member of the Kaptein's Council in charge of the department concerned may be cited as nominal defendant or respondent.

(3) No execution, attachment or like process shall in any such action or proceedings be issued against the nominal defendant or respondent or against any property of the Government of Rehoboth, 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 Rehoboth Revenue Fund.

(4) Nothing in this section contained shall affect any provision of any law which -
(a) limits the liability of the Government of Rehoboth or any department thereof in respect of any act or omission of its servants;
(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.

38. No member of the Kaptein's Council or Legislative Council shall be liable to any legal proceedings by virtue of any matter which he may have brought by petition, draft legislation, resolution, motion or otherwise before the Kaptein's Council or Legislative Council or of what he may have said before the Kaptein's Council or Legislative Council or by reason of his vote in the Kaptein's Council or Legislative Council.

39. (1) All such executive powers, authorities and functions as are necessary to be exercised in terms of this Act for bringing this Act into operation and, if necessary, for ensuring the continuation of the administration of Rehoboth in terms of this Act, may be exercised by the Minister.

(2) Without prejudice to the generality of the provisions of subsection (1) the Minister may in the transition period from the commencement of this Act up to the date on which the members of the first Kaptein's Council and of the first Legislative Council for Rehoboth are under this Act installed in office, make regulations in connection with
(a) the registration of voters for the election of a Kaptein and members of the Legislative Council and the conduct of any such elections under this Act;
(b) the appointment, salaries, allowances, discipline, retirement, discharge and other conditions of service of public officers and employees of Rehoboth and, subject to the laws applicable to the Public Service of the Republic, the transfer of public officers and employees from the employ of the Government of the Republic to the Government of Rehoboth;
(c) the pensions, except the pensions referred to in section 34 (1), gratuities or other remuneration of officers and employees of the Government of Rehoboth;
(d) the salaries and allowances payable to the Kaptein and other members of the Kaptein's Council and members of the Legislative Council;
(e) the transfer of administrative matters to the Kaptein's Council; and
(f) generally, all such matters as may be necessary for the establishment of the Government of Rehoboth and the proper administration of Rehoboth.

40. (1) The amendment, repeal or replacement of this Act shall vest in Parliament, but only after consultation by the Minister with the Kaptein's Council and Legislative Council: Provided that the Kaptein's Council and Legislative Council shall not be precluded from making proposals to the Minister on the amendment, repeal or replacement of this Act: Provided further that the State President may by proclamation in the Gazette and at the request of the Kaptein's Council and Legislative Council -
(a) increase the members of the Kaptein's Council, but not to more than five; and
(b) increase the members of the Legislative Council, but not to more than twenty-five.

(2) At the request of the Kaptein's Council and Legislative Council provision may in any such proclamation also be made for -
(a) the manner of election of members of the Legislative Council on the basis of electoral divisions or otherwise;
(b) the qualification and competency of candidates for such elections;
(c) the periods of office of the Kaptein, other members of the Kaptein's Council and members of the Legislative Council, and the filling of casual vacancies which may occur;
(d) participation by the Kaptein and other members of the Kaptein's Council in proceedings in the Legislative Council;
(e) matters arising out of the designation of members of the Legislative Council as members of the Kaptein's Council,
(f) matters connected with a meeting referred to in section 4 (8);
(g) any other matters connected with matters referred to in paragraphs (a) to (e).

41. If any provision of any law in force at the commencement of this Act is, in the application thereof to or in Rehoboth, in conflict or inconsistent with any provision of this Act, the lastmentioned provision shall prevail.

PART III
DEFINITIONS AND SHORT TITLE

42. In this Act, unless the context otherwise indicates -
(i) "Kaptein's Council" means the Kaptein's Council mentioned in section 2 (3); (iii) "Legislative Authority of Rehoboth" means the Kaptein's Council and the Legislative Council.
(ii) "Legislative Council" means the Legislative Council mentioned in section 3 (1); (ix)
(iv) "Minister" means the Minister of Coloured, Rehoboth and Nama Relations; (iv)

(v) "Parliament" means the Parliament of the Republic of South Africa; (v)

(vi) "Paternal Law" means a law passed by the Rehoboth Baster Community; (viii)

(vii) "Official Gazette of Rehoboth" means the official Gazette of Rehoboth, when one
is published, or the Official Gazette of the territory of South West Africa, when no
official Gazette for Rehoboth is published; (i)

(viii) "revenue" means all taxes, imposts, rates and duties and all casual and other
receipts accruing to the Government of Rehoboth from whatever source arising and
includes the proceeds of all loans made to the Government of Rehoboth; (ii)

(ix) "Speaker" means the Speaker mentioned in section 3 (3); (vi)

(x) "statutory body" means any council, board, bank, fund, institution, company,
corporation or other organization established or constituted by or under any law in
terms of which the accounts of such body are to be audited by the Auditor-General.
(vii)

43. This Act shall be called the Rehoboth Self-Government Short title and Act, 1976 and
shall come into operation on a date fixed by the commencement. State President by
proclamation in the Gazette.
Schedule

MATTERS REFERRED TO IN SECTIONS 14 AND 16

1. Rehoboth citizenship and the grant and issue of certificates of citizenship in Rehoboth.
2. Matrimonial matters and the registration of births and deaths in Rehoboth.
3. Control over the residence and settlement of persons in Rehoboth who are not citizens of Rehoboth.
4. The control and licensing of trading and business in Rehoboth, but excluding the licensing of trading in arms, ammunition and explosives.
5. The establishment and control of municipal institutions and other local authorities, and the planning and establishment of townships in Rehoboth.
6. The licensing of vehicles in Rehoboth.
7. The licensing and control of dogs in Rehoboth.
8. The determination, in consultation with the Minister, of the remuneration and other conditions of service of the Kaptein, other members of the Kaptein's Council and members of the Legislative Council.
10. Registration of voters and, subject to the provisions of section 10, the regulation of elections for the purposes of this Act, including such registration and the regulation of such elections outside Rehoboth but within the territory of South West Africa.
11. The appointment, control, salaries, allowances, discipline, retirement, discharge and other conditions of service of public officers and employees of the Government of Rehoboth.
13. Tourism, including the development of the tourist industry and the development and improvement of travel services to and within, and of accommodation for, travellers within Rehoboth.
14. The collection of and the control over all revenue.
15. Audit, subject to the provisions of section 31.
17. Financial regulations and control measures.
18. The planning, establishment, financing, co-ordination, execution and carrying on of industrial, agricultural, mining, trading, finance and other business undertakings, corporations, projects and relief schemes in Rehoboth, except in regard to the Rehoboth Investment and Development Corporation, Limited, established by section 2 of the Rehoboth Investment and Development Corporation Act, 1969 (Act No. 84 of 1969).
19. Purchase of stores and obtaining of services for the Government of Rehoboth.
20. Direct and local taxation on citizens of Rehoboth, whether resident within or outside Rehoboth, or on certain categories or groups of such citizens, and on property situated within Rehoboth.
21. Agriculture, including soil and veld conservation, stock improvement, development, control, maintenance and conservation of water supplies and water sources, prevention of soil erosion, irrigation, control and conservation of exotic and indigenous forests and trees, combating of veld fires, brand marks and stock and veterinary services in Rehoboth, but excluding control over the importation into or the exportation from the Republic or the territory of South West Africa of stock, exotic animals, poultry, birds, insects, agricultural or other products, plants, farm feeds, seeds, fertilizers, stock remedies, vaccines, biological material or anything liable to spread disease or infection.
22. Fish and game preservation in Rehoboth.
23. Markets and pounds in Rehoboth.
24. Subject to the provisions of this Act, the purchase, sale, hypothecation and alienation of land in Rehoboth.
27. Public works and undertakings, sanitary works, construction and maintenance of roads and bridges in Rehoboth, except main roads under the control of the administration of the territory of South West Africa.
28. Control over the erection and maintenance of buildings and structures in Rehoboth.
29. All health matters in Rehoboth, including the management and control of clinics and the control, appointment and duties of district surgeons, but excluding control over hospitals or hospitalization.
30. All educational matters, including primary, higher, adult, agricultural and technical education in Rehoboth.
31. Welfare services in Rehoboth, including child welfare, benefit schemes for the aged and blind, indigent persons and persons suffering from mental or physical disabilities, and the rehabilitation of persons who are dependent on dependence-producing substances.
32. Housing, including economic and sub-economic housing schemes in Rehoboth.
33. All labour matters in Rehoboth, but excluding all matters dealt with in the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), or the Unemployment Insurance Act, 1966 (Act No. 53 of 1966).
34. Subject to the provisions of section 32, the establishment and administration of and the control over inferior courts and the Basterhof in Rehoboth.
35. Subject to the provisions of this Act, the administration of justice in Rehoboth as well as rules of procedure.
36. Execution of wills, the administration of deceased estates and matters relating to succession in respect of citizens of Rehoboth.
37. The registration of deeds and the survey of land in Rehoboth, but excluding trigonometrical surveys.
38. The appointment, powers, duties and functions of justices of the peace and commissioners of oaths in Rehoboth.
39. The imposition of punishment and forfeitures for enforcing laws made by the Legislative Authority of Rehoboth.
40. The provision of financial assistance to citizens of Rehoboth carrying on or intending to carry on farming operations, and the exercising of control in respect of financial assistance provided.
41. Control over hotels and intoxicating liquor in Rehoboth.
42. The conservation of flora and fauna and the destruction of vermin in Rehoboth.
43. The establishment, with the concurrence of the Minister, of public holidays in Rehoboth in substitution of public holidays established by or in terms of the Public Holidays Act, 1952 (Act No. 5 of 1952).
44. Entertainment tax and the licensing, regulation and control of places of amusement and recreation in Rehoboth.
45. The restriction, regulation and control of horseracing and other racing and of betting and wagering in Rehoboth.
46. The control of auctions and auction dues in Rehoboth.
47. The establishment, control and management of libraries, library services, museums, art galleries, herbaria, botanical gardens, zoological gardens, aquariums and other educational and cultural institutions in Rehoboth.
48. The establishment, control, management and regulation of cemeteries and crematoria and the regulation of matters relating to the removal and disposal of dead bodies in Rehoboth.
49. Donations and the raising of loans by the Government of Rehoboth in consultation with the Minister of Finance of the Republic.
50. The protection of life, persons and property and the prevention of cruelty to animals in Rehoboth.
51. Subject to the provisions of section 33, the establishment, disestablishment, administration and control of prisons in Rehoboth.
52. The maintenance of law and order, the investigation of offences or alleged offences and the prevention of crime in Rehoboth, including the control, organization and administration of local police and local police matters, but excluding control:
(a) over police and security officers charged with internal security matters in the territory of South West Africa, including Rehoboth; and
(b) over police officers in the territory of South West Africa who are empowered by warrant to arrest any person wherever he may be.