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Government Notice

Goewermentskennisgewing

DEPARTMENT OF GOVERNMENTAL AFFAIRS

DEPARTEMENT VAN OWERHEIDSAKE

No. 54 1987

No. 54 1987

PROMULGATION OF ACT OF NATIONAL ASSEMBLY

AFKONDIGING VAN WET VAN NASIONALE VERGADERING

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

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

No. 2 of 1987: Administration of Estates Amendment Act, 1987.

No. 2 van 1987: Boedelwysigingswet, 1987.

Act No. 2, 1987

**ADMINISTRATION OF ESTATES
AMENDMENT ACT, 1987****EXPLANATORY NOTE:**

Words underlined with solid line indicate insertions proposed.

ACT

To amend the Administration of Estates Act, 1965, so as to grant the Cabinet the power to appoint the Master and Deputy Master of the Supreme Court; to make provision for the establishment of a Guardian's Fund for South West Africa; to amend the Executive Powers (Justice) Transfer Proclamation, 1979; and to provide for incidental matters.

*(Afrikaans text signed by the Administrator-General on
24 March 1987)*

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

Amendment of section 4 of Act 66 of 1965, as amended by section 1 of Act 54 of 1970 and section 1 of Act 79 of 1971.

1. Section 1 of the Administration of Estates Act, 1965 (hereinafter referred to as the principal Act), is hereby amended —

(a) by the insertion after the definition of “building society” of the following definition:

“ ‘Cabinet’ means the Cabinet constituted in terms of section 23 of the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation R.101 of 1985);” and

(b) by the substitution in the definition of “Master” for the words “Master, Deputy Master or Assistant Master” of the words “Master or Deputy Master”.

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VERDUIDELIKENDE NOTA:

_____ Woorde met 'n volstreep daaronder dui aan in-voegings voorgestel.

WET

Tot wysiging van die Boedelwet, 1965, ten einde die Kabinet die bevoegdheid te verleen om 'n Meester en Adjunk-meester van die Hooggeregshof aan te stel; voorsiening te maak vir die instelling van 'n Voogdyfonds vir Suidwes-Afrika; die Proklamasie op die Oordrag van Uitvoerende Gesag (Justisie), 1979, te wysig; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Administrateur-generaal onderteken op 24 Maart 1987)

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

1. Artikel 1 van die Boedelwet, 1965 (hieronder die Hoofwet genoem), word hierby gewysig –

Wysiging van artikel 1 van Wet 66 van 1965, soos gewysig deur artikel 1 van Wet 54 van 1970 en artikel 1 van Wet 79 van 1971.

(a) deur na die omskrywing van “Hof” die volgende omskrywing in te voeg:

“ ‘Kabinet’ die Kabinet ingevolge artikel 23 van die Proklamasie op die Instelling van Wetgewende en Uitvoerende Gesag vir Suidwes-Afrika, 1985 (Proklamasie R.101 van 1985), saamgestel;”; en

(b) deur in die omskrywing van “Meester” die woorde “die Meester, Adjunk-meester of Assistent-meester” deur die woorde “die Meester of Adjunk-meester” te vervang.

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ADMINISTRATION OF ESTATES AMENDMENT ACT, 1987

Substitution of section 2
of Act 66 of 1965.

2. (1) The following section is hereby substituted for section 2 of the principal Act:

"Appointment
of Master and
Deputy Masters.

2. (1) The Cabinet shall, subject to the provisions of subsection (2) and the Government Service Act, 1980 (Act 2 of 1980), appoint a Master of the Supreme Court and may, subject to the said provisions, appoint one or more Deputy Masters of the Supreme Court, who may, subject to the direction, control and supervision of the Master, do anything which may lawfully be done by the Master.

(2) No person shall be appointed as Master or Deputy Master of the Supreme Court unless he has obtained the Diploma Iuris or any other qualification deemed by the Government Service Commission to be equivalent thereto.

(3) Whenever in the opinion of the Cabinet it becomes necessary that an acting Master or Deputy Master of the Supreme Court be appointed, the Cabinet may –

(a) appoint any Deputy Master referred to in subsection (2) or any other competent officer in the government service contemplated in section 2 of the said Government Service Act, 1980, to act as Master of the Supreme Court for the period for which such appointment may be necessary;

(b) appoint any competent officer in the government service contemplated in section 2 of the said Government Service Act, 1980, to act as Deputy Master of the Supreme Court for the period for which such appointment may be necessary.

(4) The Cabinet may delegate any power conferred on it by this section to the Secretary for Justice."

(2) The person who immediately before the commencement of this Act held the office of Master of the Supreme Court by virtue of an appointment under section 2 of the principal Act, and the person who so held

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2. (1) Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 2 van Wet 66 van 1965.

"Aanstelling van Meester en Adjunk-meesters.

2. (1) Die Kabinet stel, behoudens die bepalings van subartikel (2) en die Regeringsdienswet, 1980 (Wet 2 van 1980), 'n Meester van die Hooggeregshof aan en kan, behoudens bedoelde bepalings, een of meer Adjunk-meesters van die Hooggeregshof aanstel, wat, onder die leiding, beheer en toesig van die Meester, enigiets kan doen wat die Meester wettiglik kan doen.

(2) Niemand word as Meester of Adjunk-meester van die Hooggeregshof aangestel nie tensy hy die Diploma Iuris of enige ander kwalifikasie wat deur die Regeringsdienskommissie as gelykstaande daarmee geag word, behaal het.

(3) Wanneer dit na die mening van die Kabinet nodig word dat 'n waarnemende Meester of Adjunk-meester van die Hooggeregshof aangestel word, kan die Kabinet —

(a) 'n in subartikel (2) bedoelde Adjunk-meester of 'n ander bevoegde beamp- te in die regeringsdiens in artikel 2 van genoemde Regeringsdienswet, 1980, beoog, aanstel om as Meester van die Hooggeregshof waar te neem vir die tydperk waarvoor so 'n aanstelling nodig is;

(b) 'n bevoegde beamp- te in die regeringsdiens in artikel 2 van genoemde Regeringsdienswet, 1980, beoog, aanstel om as Adjunk-meester van die Hooggeregshof waar te neem vir die tydperk waarvoor so 'n aanstelling nodig is.

(4) Die Kabinet kan 'n bevoegdheid wat by hierdie artikel aan hom verleen word aan die Sekretaris van Justisie delegeer".

(2) Die persoon wat onmiddellik voor die inwerking-treding van hierdie Wet uit hoofde van 'n aanstelling kragtens artikel 2 van die Hoofwet, die amp van Meester van die Hooggeregshof beklee het, en die persoon wat die

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the office of Assistant Master of the Supreme Court, shall be deemed at such commencement to have been appointed under the said section 2, as amended by subsection (1) of this section, as the Master and Deputy Master of the Supreme Court, respectively.

Amendment of section 3
Act 66 of 1965.

3. Section 3 of the principal Act is hereby amended by the deletion in subsection (2) of the words "or an Assistant Master".

Amendment of section
86 of Act 66 of 1965.

4. Section 86 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) There is hereby established a guardian's fund to be known as the Guardian's Fund of South West Africa (in this Act referred to as the guardian's fund) which shall consist of all moneys –

(a) which have been or are received by the Master at any time, whether before, on or after 1 April 1987, in terms of this Act or any other law or an order of the Court;

(b) which have been or are so accepted by the Master in trust for any known or unknown person."

Substitution of section
87 of Act 66 of 1965.

5. The following section is hereby substituted for section 87 of the principal Act:

"Banking account of guardian's fund.

87. (1) There shall be maintained at a banking institution in the territory a cheque account in the name of the guardian's fund –

(a) into which shall be deposited all amounts received by the Master which may or are required to be deposited in the guardian's fund in terms of this Act; and

(b) from which shall be paid all amounts which are, in terms of this Act, required to be paid out as a charge to the guardian's fund.

(2) Moneys in the cheque account referred to in subsection (1) which are not required for immediate use shall be invested at any financial institution approved by the Cabinet or in any public stock or bonds or bills of exchange or debentures issued under section 27 of the State Finance Act, 1982 (Act 1 of 1982)".

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amp van Assistent-meester van die Hooggeregshof aldus bekleed het, word geag om by bedoelde inwerkingtreding kragtens genoemde artikel 2, soos gewysig deur subartikel (1) van hierdie artikel as, onderskeidelik, Meester en Adjunk-meester van die Hooggeregshof aangestel te wees.

3. Artikel 3 van die Hoofwet word hierby gewysig deur in subartikel (2) die woorde "of 'n Assistent-meester" te skrap.

Wysiging van artikel 3 van Wet 66 van 1965.

4. Artikel 86 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

Wysiging van artikel 86 van Wet 66 van 1965.

"(1) Daar word hierby 'n voogdyfonds met die naam die Voogdyfonds van Suidwes-Afrika (in hierdie Wet die voogdyfonds genoem) ingestel wat bestaan uit alle gelde –

- (a) wat te eniger tyd, hetsy voor, op of na 1 April 1987 deur die Meester ingevolge hierdie Wet of enige ander wet of 'n bevel van die Hof ontvang is of word;
- (b) wat aldus deur die Meester ten behoeve van 'n bekende of onbekende persoon in trust aangeneem is of word. ”.

5. Artikel 87 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 87 van Wet 66 van 1965.

“Bankrekening van voogdyfonds.

87. (1) Daar word by 'n bankinstelling in die gebied 'n tjekrekening op naam van die voogdyfonds gehou –

- (a) waarin alle bedrae gestort word wat deur die Meester ontvang word wat ingevolge hierdie Wet in die voogdyfonds gestort kan of moet word; en
- (b) waaruit alle bedrae betaal word wat ingevolge hierdie Wet ten laste van die voogdyfonds betaal moet word.

(2) Geld in die tjekrekening in subartikel (1) bedoel wat nie vir onmiddellike gebruik nodig word nie, moet belê word by 'n finansiële instelling deur die Kabinet goedgekeur of in openbare effekte of obligasies of wissels of skuldbriewe wat kragtens artikel 27 van die Wet op Staatfinansies, 1982 (Wet 1 van 1982), uitgegee of uitgereik word”.

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Amendment of section
88 of Act 66 of 1965.

6. Section 88 of the principal Act is hereby amended by the substitution in subsection (1) for the words "Minister of Finance" of the word "Cabinet".

Amendment of section
92 of Act 66 of 1965.

7. Section 92 of the principal Act is hereby amended by the addition of the words "and shall be deposited into the Central Revenue Fund".

Amendment of section
97 of Act 66 of 1965.

8. Section 97 of the principal Act is hereby amended by the substitution in the proviso for the word "Minister" of the word "Cabinet".

Amendment of section
103 of Act 66 of 1965.

9. Section 103 of the principal Act is hereby amended by the substitution in subsection (1) for the words "State President" of the word "Cabinet".

Amendment of section 3
of Proclamation AG. 33
of 1979, as amended by
section 1 of Proclama-
tion AG. 24 of 1983 and
section 1 of Proclama-
tion AG. 32 of 1985.

10.(1) Section 3 of the Executive Powers (Justice) Transfer Proclamation, 1979, is hereby amended by the deletion in paragraph (o) of subsection (1) of the expression "sections 2, 88, 91, 92, 93, 97 and 103 (1)(b) of, and".

(2) Anything done under section 103(1)(b) of the principal Act before the commencement of this Act, shall be deemed to have been done under that section as amended and applied by and by virtue of the provisions of this Act.

Short title and com-
mencement.

11. This Act shall be called the Administration of Estates Amendment Act, 1987, and shall come into operation on 1 April 1987.

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6. Artikel 88 van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde "Minister van Finansies" deur die woord "Kabinet" te vervang. Wysiging van artikel 88 van Wet 66 van 1965.
7. Artikel 92 van die Hoofwet word hierby gewysig deur die woorde "en word in die Sentrale Inkomstefonds gestort" by te voeg. Wysiging van artikel 92 van Wet 66 van 1965.
8. Artikel 97 van die Hoofwet word hierby gewysig deur in die voorbehoudsbepaling die woord "Minister" deur die woord "Kabinet" te vervang. Wysiging van artikel 97 van Wet 66 van 1965.
9. Artikel 103 van die Hoofwet word hierby gewysig deur in subartikel (1) die woord "Staatspresident" deur die woord "Kabinet" te vervang. Wysiging van artikel 103 van Wet 66 van 1965.
10. (1) Artikel 3 van die Proklamasie op die Oordrag van Uitvoerende Gesag (Justisie), 1979, word hierby gewysig deur in paragraaf (o) van subartikel (1) die uitdrukking "artikels 2, 88, 91, 92, 93, 97 en 103(1)(b) van, en" te skrap. Wysiging van artikel 3 van Proklamasie AG. 33 van 1979, soos gewysig deur artikel 1 van Proklamasie AG. 24 van 1983 en artikel 1 van Proklamasie AG. 32 van 1985.
- (2) Enigiets wat voor die inwerkingtreding van hierdie Wet gedoen is kragtens artikel 103(1)(b) van die Hoofwet, word geag gedoen te wees kragtens daardie artikel soos gewysig en toegepas deur en uit hoofde van die bepalings van hierdie Wet.
11. Hierdie Wet heet die Boedelwysigingswet, 1987, en tree op 1 April 1987 in werking. Kort titel en inwerking-treding.