



## Promotion of Bantu Self-governing Act, Act No. 46 of 1959

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## Promotion of Bantu Self-governing Act, Act No. 46 of 1959

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EXTENSION OF UNIVERSITY EDUCATION

EXTENSION OF UNIVERSITY EDUCATION 512 PROMOTION OF  
BANTU SELF-GOVERNMENT

Act No. 45  
of 1959.

Repeal and amendment of laws. Short title.

41. The laws mentioned in the Schedule to this Act are hereby repealed or amended to the extent set forth in the third column of that Schedule.

42. This Act shall be called the Extension of University Education Act, 1959. Schedule.

(Section 41.)

LAWS AMENDED OR REPEALED.

No. and year of law.	Short title,	Extent of amendment or repeal.
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Act No. 38 of 1945.	The Financial Relations Consolidation and Amendment Act, 1945.	In section seventeen, the substitution in paragraph (b) of subsection (1) for the words "University College of Fort Hare" of the words "university college now known as the University College of Fort Hare and other university colleges established under the Extension of University Education Act, 1959;"
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Act No. 23 of 1956.	The Exchequer and Audit Act, 1956.	In section twenty, the insertion in sub-section (2) after the expression "Bantu Education Act, 1953 (Act No. 47 of 1953)" of the expression "and of the Extension of University Education Act, 1959,"
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Act No. 46 of 1959.

ACT

To provide for the gradual development of self-governing Bantu national units and for direct consultation between the Government of the Union and the said national units in regard to matters affecting the interests of such national units; to amend the Native Administration Act, 1927, the Native Trust and Land Act, 1936, and the Bantu Authorities Act, 1951, and to repeal the Representation of Natives Act, 1936; and to provide for other incidental matters.

(Afrikaans text signed by the Governor-General.) (Assented to 17th June, 1959.)

WHEREAS the Bantu peoples of the Union of South Africa do not constitute a homogeneous people, but form separate national units on the basis of language and culture:

514 PROMOTION OF BANTU SELF-GOVERNMENT

Act No. 46 AND WHEREAS it is desirable for the welfare and progress of 1959. of the said peoples to afford recognition to the various national

units and to provide for their gradual development within their own areas to self-governing units on the basis of Bantu systems of government:

AND WHEREAS it is therefore expedient to develop and extend the Bantu system of government for which provision has been made in the Bantu Authorities Act, 1951, with due regard to prevailing requirements, and to assign further powers, functions and duties to regional and territorial authorities:

AND WHEREAS the development of self-government is stimulated by the grant to territorial authorities of control over the land in their areas, and it is therefore expedient to provide for the ultimate assignment to territorial authorities of certain rights and powers conferred on or assigned to the Governor-General or the Minister or the Trustee referred to in the Native Trust and Land Act, 1936, in terms of any law:

AND WHEREAS it is expedient to provide for direct consultation between the various Bantu national units and the Government of the Union:

AND WHEREAS it is expedient to repeal the Representation of Natives Act, 1936:

AND WHEREAS it is expedient to provide for other incidental matters:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly

of the Union of South Africa, as follows: Definitions. 1. Unless the context otherwise indicates, any expression

used in this Act to which in the Bantu Authorities Act, 1951 (Act No. 68 of 1951), a meaning has been assigned, bears the

meaning so assigned thereto, and (i) "national unit" or "unit" means a national unit referred to in section two; (ii)

(ii) "principal Act" means the Bantu Authorities Act, 1951 (Act No. 68 of 1951);

(ii) (iii) "this Act" includes any regulation made thereunder.

(i)

Bantu national 2. (1) The Bantu population shall for the purpose of this units and Act consist of the following national units, namely appointment of

commissioners- (a) the North-Sotho unit;

general. (b) the South-Sotho unit;

(c) the Swazi unit;

(d) the Tsonga unit;

(e) the Tswana unit;

(f) the Venda unit;

(g) the Xhosa unit; and

(h) the Zulu unit.

## 516 PROMOTION OF BANTU SELF-GOVERNMENT

Act No. 46 (2) The Governor-General shall appoint a commissioner of 1959.

general in respect of (a) the North-Sotho unit;

(b) the Tswana and South-Sotho units;

- (c) the Venda and Tsonga units;
- (d) the Xhosa unit; and
- (e) the Zulu and Swazi units,

and may at any time whenever he deems it necessary or expedient appoint a separate commissioner-general in respect of each of the units referred to in paragraph (b), (c) or (e).

(3) A commissioner-general shall in relation to the national unit in respect of which he has been appointed exercise the powers and perform the functions and duties conferred or imposed upon a commissioner-general by this Act.

- (4) A commissioner-general(a) shall be appointed on such conditions as the Governor-General may determine and shall hold office at the pleasure of the Governor-General, but not for a period exceeding five years: Provided that he may at any time be re-appointed on the expiration of his period of office;
- (b) shall not hold any other office of profit in the service of the State: Provided that a person who is in receipt of a pension from the State shall not be deemed to hold an office of profit in the service of the State for the purposes of this paragraph; and
- (c) shall reside at a place which the Minister considers advisable in order that he may best serve the interests of the national unit concerned.

Powers, functions 3. A commissioner-general shall represent the Government and duties of with the national unit in respect of which he has been appointed, commissionergeneralc and shall in relation to that unit(a) furnish guidance and advice in respect of all matters affecting administrative development and the social, educational, economic and general progress of the population;

- (b) promote the development of the administration of justice and of courts of law;
- (c) consult with the Bantu population, in particular with territorial authorities, territorial boards and other bodies established by law which represent Bantu interests, paramount chiefs, chiefs, sub-chiefs, headmen and representatives recognized under subsection (2) of section four, in regard to all matters affecting the interests of the national unit concerned;
- (d) enlighten the population in regard to Government policy and legislation;
- (e) advise the Minister in regard to the needs and wishes of the population; and
- (f) exercise such other powers and perform such other functions and duties, not being powers, functions or duties which in terms of any law are required to be

## 518 PROMOTION OF BANTU SELF-GOVERNMENT

Act No. 46 of 1959.

Representatives of Bantu in urban areas.

Powers, functions and duties of representatives.

Amendment of section 2 of Act 38 of 1927, as substituted by section 2 of Act 21 of 1943, and amended by section 19 of Act exercised or performed by any officer or person specified therein, as may be assigned to him by the Minister.

4. (1) A territorial authority (including any territorial authority established under Proclamation No. 180 of 1956) or a regional authority to which the powers, functions and duties of a territorial authority as set out in paragraphs (a), (d) and (e) of sub-section (1) of section seven of the principal Act has been assigned, or any territorial board may in consultation with the Minister and with the approval of the Governor-General nominate a Bantu person to represent that authority or board in the areas of one or more urban local authorities, as defined in section one of the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), with that portion of the Bantu community in the said areas, which belongs to the national unit concerned.

(2) Any nominee who has been approved by the Governor-General shall be recognized as the representative of the regional or territorial authority or territorial board concerned in the area in respect of which he has been nominated.

(3) The Governor-General may withdraw the recognition of any such representative at the request of, or after consultation by the Minister with, the authority or board by whom he was nominated.

5. (1) A representative of a regional or territorial authority or territorial board who has been recognized in accordance with sub-section (2) of section four(a) shall advise the authority or board concerned in regard to matters affecting the general interests of the national unit concerned in the area in respect of which he has been recognized;

(b) shall in consultation with the authority or board by which he has been nominated, and in the manner determined by and subject to the approval of the Minister, constitute a board to assist him in the performance of his functions and duties; and

(c) shall act as the representative of that authority or board with the national unit concerned and shall on its behalf serve the interests of that unit within the area of the urban local authority concerned.

(2) Any such representative shall for the purposes of sections twelve and twenty of the Native Administration Act, 1927 (Act No. 38 of 1927), be deemed to be a headman duly appointed as such under sub-section (8) of section two of that Act.

6. Section two of the Native Administration Act, 1927, is hereby amended(a) by the insertion in sub-section (7)bis after the word

"thereafter" of the words "or when any person is or has been recognized or appointed as the chief of a native tribe by a territorial authority by virtue of powers conferred upon it under sub-section (8)ter";

and

## 520 PROMOTION OF BANTU SELF-GOVERNMENT

Act No. 46

of 1959.

56 of 1949, section 19 of Act 54 of 1952 and section 1 of Act 79 of 1957.

Insertion of sections 4bis and 4ter in Act 18 of 1936.

-Legislative powers of Bantu authorities.

(b) by the insertion after sub-section (8) of the following sub-sections:

"(8)bis No chief or headman shall be recognized, appointed or deposed under the provisions of subsection (7) or (8), except after consultation with the appropriate territorial authority established under section two of the Bantu Authorities Act, 1951 (Act No. 68 of 1951), or under Proclamation No. 180 of 1956.

(8)ter The Governor-General may assign any of the powers vested in him or the Minister in terms of sub-section (7) or (8) to any territorial authority referred to in sub-section (8)bis, which shall exercise any such powers in such manner and subject to such conditions and restrictions as the Governor-General may from time to time prescribe by proclamation in the Gazette: Provided that the recognition, appointment or deposition of any chief or headman by a territorial authority shall be subject to the approval of the Governor-General or the Minister, as the case may be."

7. The following sections are hereby inserted in the Native Trust and Land Act, 1936, after section four: "Transfer 4bis. The Governor-General may by proclamation in the Gazette provide that any right or obligation of the Trustee in respect of any land which authorities, has become vested in or has been acquired by the

Trust, and which is situated in an area in respect of which a territorial authority has been established under paragraph (c) of sub-section (1) of section two of the Bantu Authorities Act, 1951 (Act No.

68 of 1951), or under Proclamation No. 180 of 1956, shall, subject to the provisions of this Act and the conditions prescribed in such first-mentioned proclamation, vest in that territorial authority. Exercise of 4ter. (1) The Governor-General may by proclamation in the Gazette, assign any power, function performance of functions or duty vested in him or in the Minister in terms of or duties by this Act, which may be exercised or performed territorial in or in respect of an area for which a territorial authorities, authority referred to in section four bis has been established, to that territorial authority.

(2) The exercise of any power or the performance of any function or duty which has been assigned to a territorial authority under sub-section (1), shall be subject to the conditions prescribed in the relevant proclamation."

8. Any power conferred upon a Bantu authority in terms of the principal Act to make by-laws shall be construed as a power to make enactments, and any reference in that Act to a by-law shall be construed accordingly.

## 522 PROMOTION OF BANTU SELF-GOVERNMENT

Act No. 46  
of 1959.

Amendment of section 1 of Act 68 of 1951.

Amendment of section 2 of Act 68 of 1951.

Amendment of section 5 of Act 68 of 1951.

Substitution of section 7 of Act 68 of 1951.

9. Section one of the principal Act is hereby amended(a) by the insertion before the definition of "chief" of the following definition:

"'Bantu area' means any area consisting of land referred to in sub-section (1) of section twenty-one of the Native Trust and Land Act, 1936 (Act No.

18 of 1936), or any scheduled native area as defined in that Act;";

(b) the substitution for the definition of "Minister" of the following definition:

"'Minister' means the Minister of Bantu Administration and Development;"; and

(c) by the insertion after the definition of "territorial authority" of the following definition:

"'territorial board' means a territorial board established under sub-section (1) of section seven bis."

10. Section two of the principal Act is hereby amended by the substitution in sub-section (2) for the word "area" where it appears for the first time of the words "Bantu area" and for the words "every area" of the words "every such area".

11. Section five of the principal Act is hereby amended(a) by the substitution in paragraph (a) of sub-section (1)

for the word "Minister" of the word "Government";

and

(b) by the addition of the following sub-section:

"(7) The Governor-General may by proclamation in the Gazette assign any of the powers, functions or duties devolving upon a territorial authority under section seven, to a regional authority of an area in respect of which a territorial authority has not been established: Provided that the assignment of such powers, functions or duties shall lapse upon the establishment of a territorial authority for such area, except in so far as the Governor-General otherwise provides in such proclamation or by subsequent proclamation in the Gazette."

12. The following section is hereby substituted for section seven of the principal Act:

"Powers, 7. (1) A territorial authorityfunctions (a) shall maintain the closest possible contact with and duties

of terri- the commissioner-general appointed for the  
torial national unit in question under the Promotion  
authorities, of Bantu Self-government Act, 1959;

(b) shall assume a leading role and where necessary afford assistance to tribal and regional authorities within its area in connection with matters affecting the material, spiritual, moral and social welfare and the educational interests of

the native population of that area;

(c) shall endeavour to ensure the effective development of the administration of justice and of

courts of law within its area;

#### 524 PROMOTION OF BANTU SELF-GOVERNMENT

Act No. 46 (d) shall have power at any time to convene a conference of the population within its area of 1959.

or of any portion or of particular members of such population or of the national unit to which the population of its area belongs, and may invite the Minister or the commissioner-general concerned to attend such conference;

(e) shall be competent to advise and make representations to the Government in regard to all matters affecting the general interests of the Bantu tribes and communities in the area in respect of which it has been established or of the national unit (as defined in the Promotion of Bantu Self-government Act, 1959) to which the said population belongs;

(f) shall have power, subject to the provisions of any applicable law, to provide for(i) the establishment of markets and pounds;

(ii) the control of the erection and maintenance of buildings;

(iii) the licensing and allocation of trading and other sites in respect of natives; and

(iv) any matter relating to the exercise of its powers or the performance of its functions or duties for which it considers it expedient to provide, including provision for the delegation of executive powers to a committee of such an authority or any native designated by it; and

(g) shall have such of the powers, functions and duties which in terms of this Act are vested in a regional authority, as may be assigned to that territorial authority by the GovernorGeneral by proclamation in the Gazette, and such other powers, functions and duties relating to the conduct of native affairs as may be specified in that proclamation, and the provisions of this Act which apply in connection with the exercise of such powers or the performance of such functions or duties by regional authorities, shall mutatis mutandis apply in connection with the exercise of such powers or the performance of such functions or duties by such a territorial authority.

(2) A territorial authority may make enactments in connection with(a) any matter referred to in paragraph (b), (c),

(d), (f) or (g) of sub-section (1);

#### 526 PROMOTION OF BANTU SELF-GOVERNMENT

Act No. 46 (b) any matter in respect of which the Governor of 1959.

General or the Minister may in terms of any

law make regulations or impose any prohibition or prescribe any requirement, and which in the opinion of the Governor-General falls within the scope of territorial administration and which he may assign to such territorial authority; and

(c) matters which Parliament may from time to time assign to territorial authorities.

(3) Whenever powers, functions or duties have under paragraph (g) of sub-section (1) been assigned to a territorial authority, the regional authority established for the area in respect of which such powers, functions or duties have been so assigned shall be deemed to be divested of such powers, functions and duties, except in so far as the Governor-General otherwise provides by proclamation in the Gazette.

(4) The provisions of sub-sections (2) to (6), inclusive, of section five shall mutatis mutandis apply with reference to a territorial authority.

(5) The assignment of any matter to a territorial authority under paragraph (b) of sub-section (2) shall not divest the Governor-General or the Minister of any powers in connection therewith, and any such assignment may at any time be withdrawn: Provided any enactment made before the withdrawal shall remain in force until it is repealed by the Governor-General or the Minister, as the circumstances may require.

(6) A territorial authority may, in addition to any rate it may levy by virtue of an assignment under paragraph (g) of sub-section (1)(a) impose a tax(i) on the native inhabitants or any class or group of such inhabitants of the area in respect of which that territorial authority has been established;

(ii) on the income of such inhabitants or any class or group of such inhabitants; and

(b) impose any other tax which it is by virtue of an assignment referred to in paragraph (c) of sub-section (2) empowered to impose: Provided that until the Governor-General otherwise provides in respect of any particular territorial authority by proclamation in the Gazette, any tax under this sub-section may be imposed only with his approval.

(7) No tax referred to in sub-section (6) shall become operative until it has been made known by notice in the Gazette."

## 528 PROMOTION OF BANTU SELF-GOVERNMENT

Act No. 46  
of 1959.

Insertion of  
section 7bis in Act 68 of 1951  
Regulations.

13. The following section is hereby inserted in the principal Act after section seven:

"Establishment of territorial boards.

7bis. (1) The Governor-General shall, by proclamation in the Gazette, in respect of every Bantu area for which a territorial authority is not in existence, and where the powers, functions and duties of a territorial authority, as set out in paragraphs (a), (d) and (e) of sub-section (1) of section seven, have not been assigned to a regional authority, establish a territorial board for such Bantu tribes or communities or such Bantu tribes and communities jointly and for such area as he may determine.

(2) A territorial board(a) shall be established after consultation with the

tribal and regional authorities in the area in question, or, where such authorities have not been established, with the chiefs and headmen of the tribes and communities concerned; and

(b) shall be constituted in the manner and shall exercise the powers and perform the functions and duties prescribed by the Governor-General in the relevant proclamation.

(3) Whenever a territorial authority is established in respect of the area of a regional authority which is represented on a territorial board, or in respect of a tribe or community which is so represented, or whenever the powers, functions and duties which in terms of paragraphs (a), (d) and (e) of sub-section (1) of section seven vest in a territorial authority, are assigned to a regional authority, that regional authority, tribe or community shall cease to be so represented, and if a territorial authority has been established or such powers, functions and duties have been assigned to a regional authority in respect of the whole area for which a territorial board has been established, that board shall cease to exist.

(4) The Governor-General shall by proclamation in the Gazette define the area in respect of which a territorial board has been established and may in like manner from time to time in his discretion vary such area as circumstances may require."

14. (1) The Governor-General may make regulations(a) as to the terms of office and remuneration of a commissioner-general;

(b) providing for the attendance by a commissioner-general of meetings of tribal, regional and territorial authorities and territorial boards;

(c) generally in regard to any matter which he may consider necessary for the attainment of the objects of

PROMOTION OF: BANFU SIL-(OVLRN MIN 530  
AMENDMENT

LAND BANK

Act No. 46  
of 1959.

Repeal of Act 12 of 1936.

Short title,

Act No. 47 of 1959.

Amendment of section 2 of Act 13 of 1944, as amended by section 1 of Act 42 of 1951, section 1 of Act 13 of 1953 and section 1 of Act 60 of 1957.

this Act, the generality of the powers conferred by this paragraph not being limited by the particular provisions contained in the preceding paragraphs.

(2) Different regulations may be made in respect of different tribal, regional or territorial authorities or different territorial boards, national units or Bantu tribes or communities.

(3) Any regulations made under this section may provide for penalties for a contravention thereof or failure to comply therewith, not exceeding a fine of twenty-five pounds or in default of payment imprisonment for a period of three months.

15. (1) The Representation of Natives Act, 1936, is hereby repealed, but the repeal shall have no effect in relation to any person duly elected as a senator or member of the House of Assembly or a Provincial Council in terms of that Act and holding office at the commencement of this Act.

(2) Notwithstanding the repeal of the Representation of Natives Act, 1936, no person shall be entitled to have his name included in any list of persons qualified to vote at elections of members of the House of Assembly or of a Provincial Council, in which he would, but for the repeal of the said Act, not have been entitled to have his name included.

(3) Any person whose name is at the commencement of this Act included in the Cape native voters' roll framed under section seven of the Representation of Natives Act, 1936, shall retain all the rights and privileges to which he would, but for the repeal of that Act, in terms of any other law have been entitled as a registered parliamentary voter in the province of the Cape of Good Hope.

16. This Act shall be called the Promotion of Bantu Selfgovernment Act, 1959.

ACT

To amend the Land Bank Act, 1944.

(English text signed by the Governor-General.)

(Assented to 19th June, 1959.)

BE IT ENACTED by the Queen's Most Excellent Majesty,

the Senate and the House of Assembly of the Union of South Africa. as follows:-

1. Section 10 of the Land Bank Act, 1944 (hereinafter referred to as the principal Act), is hereby amended(a) by the insertion after the definition of "managing director" of the following definition:

"mortgage" includes any bond in which it is stipulated

that the bond is intended to secure future advances and a sum is fixed as an amount beyond