

STATUS OF PRE-ELECTION LAW

S230 : Laws repealed

S229: All others remain until:

- repealed; or
 - amended
-

S230: Apartheid constitutional framework

S229: All others remain in force in transition period even if unconstitutional

PHASES OF TRANSITION

S235

1) FIRST TEN DAYS AFTER ELECTION

Existing authorities continue until new President assumes office, provided:

- a) TEC may disapprove of any power;
- b) State President must act in consultation with leader of biggest party after results announced

2) PRESIDENT ASSUMES OFFICE

- Apartheid constitutional framework falls away;
- New executive authorities in place:
 - President + Cabinet
 - Premiers + provincial executives

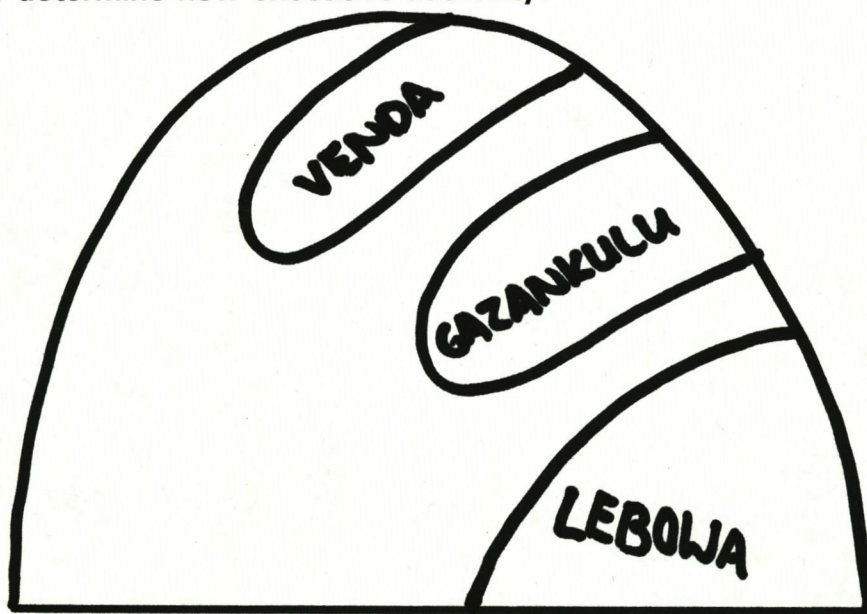
What happens to public administration, government departments, etc.?

PUBLIC ADMINISTRATION

S236

- functions in terms of pre-election law until rationalised/integrated;
- terms and conditions of employment remain same until amended by law;
- pensionable salary may not be reduced;
- new laws may establish uniformity of terms and conditions of employment;
- 27 April 1993 - 30 September 1994 changes reviewable;
- functions under new executive authority.

How to determine new executive authority?



NORTHERN TRANSVAAL

S229 - laws remain in force, but:

National law - National law

National law - Provincial law

Provincial law - National law

Provincial law - Provincial law

Homeland law - National law

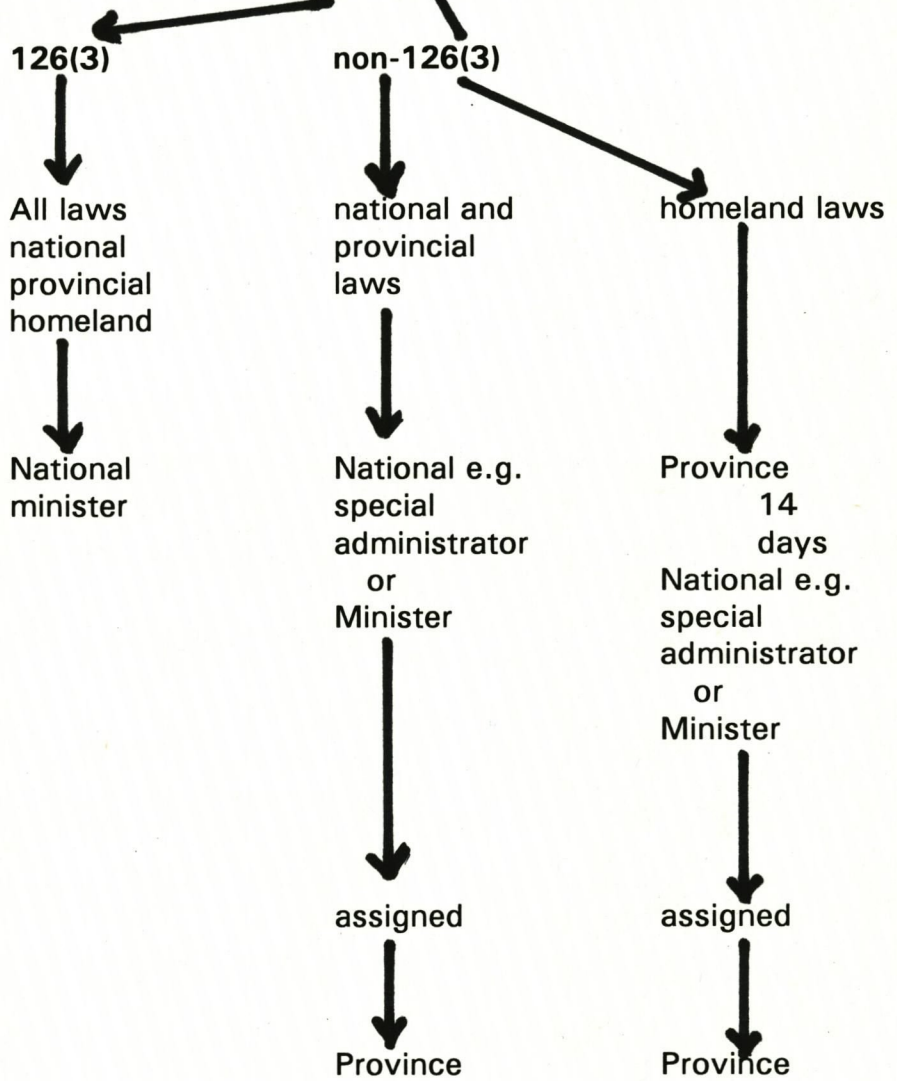
Homeland law - Provincial law

How to allocate?

**NON
SCHEDULE
G-LAWS**



**SCHEDULE G
LAWS**



EXAMPLE

NATIONAL MINISTER OF EDUCATION AND TRAINING

Responsible for:

All national, provincial and homeland training laws and departments
(Training is non-schedule G)

Parts of national, provincial and homeland laws, plus departments of education
(Education is schedule G)

S237: RATIONALISE

AIM: Effective admin @

- national level
- provincial level

DEVICE TO ACHIEVE RATIONALISATION S237(3)

President may take such steps as considers necessary to achieve aim of effective administrations including by proclamation:

- amend, repeal or replace any law;
- transfer and second personnel;
- allocate property, funds, rights and obligations

Submit proclamations to Parliament within 14 days - may disapprove.

LAC sits as special tribunal to determine disputes.

RESPONSIBILITY FOR RATIONALISATION

Primarily - national government

Also - provincial government

Advice - Commission on Provincial Government

- Public Service Commission
- Provincial Service Commissions

ASSETS AND LIABILITIES

S239

ASSETS

- National government, unless non-126(3) schedule G function
- Provincial government

Disputes - commission on Provincial Government

DEBTS AND LIABILITIES

Directly linked to provincial assets - provincial government

All other - national

Parliament to pass Act to facilitate application

PRIORITIES ARISING

- 1) Categorise schedule G laws into national and provincial functions
- 2) Categorise government departments or parts of government departments, for national and provincial functions
- 3) Assess assets and liabilities for national and provincial distribution
- 4) Establish policy on uniformity of terms and conditions of employment
- 5) Identify laws in need of repeal / amendment / replacement
- 6) Prepare proclamation to establish efficient, rationalised, administrations at national and provincial levels

"4.1

A democratically elected interim/transitional parliament made up of a National Assembly (constituted as set out hereunder) and a Senate (the structure of which to be decided upon) with the power to act as an interim/transitional legislature for governing the country during the interim period in terms of such special majorities and general constitutional principles agreed upon.

4.2

The new constitution for South Africa shall be drawn up and adopted by the National Assembly in terms of the procedure set out below. Such constitution shall enshrine and not be in conflict with the general constitutional principles and which will replace the interim/transitional constitution".