

6. RELEVANT LEGISLATION

A. CONSTITUTIONAL AND ADMINISTRATIVE LEGISLATION

(a) Republic of Transkei Constitution Act No. 15 of 1976.—

To constitute the Republic of Transkei and to provide the incidental matters.

(Territorial Waters Act No. 8 of 1978.—

To determine and define the territorial waters and the fishing zone of Transkei and to provide for the exploitation of natural resources of the continental shelf of Transkei and for other incidental matters.

Aliens and Travellers Control Act No. 29 of 1977.—

To restrict, regulate and control the entry into, departure from and travelling through Transkei of persons, to control the residence or temporary sojourn of aliens; provide for their registration and their removal and for the removal of undesirable and other persons, and to provide for incidental matters.

Diplomatic Privileges Act No. 4 of 1984.—

To consolidate and amend the laws relating to the immunities and privileges of heads or other representatives, of States or governments; to provide for the immunities and privileges of delegates to international conferences and of members and officials of certain organizations and institutions; the granting of certain immunities, rights and privileges to certain other persons; and to provide for matters incidental thereto.

(b) Decree No. 1 of 1988.—

Dissolves Parliament and establishes a Military Council and Council of Ministers; provides for the introduction of laws for the peace, order and good government of Republic of Transkei until a civilian rule is restored; amends certain laws and provides for matters incidental thereto.

(c) Decree No. 1 (Constitutional Matters) of 1991.—

Dissolves Council of Ministers; provides for the appointment of civilians to the Military Council, confers status of Minister of State on members of the Military Council and determines their number.

No. 41 of 1971.-

To provide for the prohibition of the dealing in, and the use or possession of dependence producing drugs; the imposition of a duty on certain persons to report to the police certain information in relation to certain acts in connection with such drugs; the forfeiture of certain property of certain persons; the cancellation of certain licences of certain persons; the creation of certain presumptions; the removal from detention and interrogation of certain persons; the establishment of rehabilitation centres and hostels, and registration of institutions as rehabilitation centres and hostels, the committal of certain persons to and their detention, treatment and training in such rehabilitation centres or registered rehabilitation centres; the appointment of a Director of Rehabilitation Services to exercise control over rehabilitation centres and hostels and registered rehabilitation centres, and the reception and discharge of inmates of rehabilitation centres and registered rehabilitation centres; the amendment of the Medical, Dental and Pharmacy Act, 1928, and the Criminal Procedure Act, 1955, and to provide for other incidental matters.

(c) Architects' Act No. 35 of 1970.-

To provide for the establishment of a South African Council for architects, for the registration of architects and architects in training, and for incidental matters.

(d) Professional Engineers Act No. 81 of 1968.-

To provide for the establishment of a South African Council for Professional Engineers, for the registration of engineers and engineers in training, and for other incidental matters.

(c) Quantity Surveyors Act No. 36 of 1970.-

To provide for the establishment of a South African Council for Quantity Surveyors, for the registration of quantity surveyors and quantity surveyors in training, and for incidental matters.

(d) District Administration Act No. 5 of 1979.—

Provides for the appointment of district commissioners, their powers, functions and duties and matters incidental thereto.

(e) Interpretation Act No. 4 of 1980.—

Consolidates and amends the laws relating to the interpretation of statutes and the shortening of the language of statutes.

(f) Proclamation R142 of 1963.—

Registration of voters and conduct of election of elected members of the Transkei National Assembly.

(g) Criminal Procedure Act No. 13 of 1983.—

Provides for procedural and related matters in criminal proceedings.

(h) Supreme Court Act No. 5 of 1983.—

It consolidates and amends the laws relating to the Supreme Court of Transkei and it also deals with procedural issues.

(i) Chiefs' Courts Act No. 6 of 1983.—

Provides for the conferment of civil and criminal jurisdiction upon a chief and repeals certain laws and to provide for other related matters.

(j) Regional Authority Courts Act No. 13 of 1982.—

Establishes regional authority courts in Transkei which enjoy the same jurisdiction as Magistrates' courts.

(k) Transkeian Penal Code No. 9 of 1983.—

Establishes a revised code of criminal law for Transkei and also amends and consolidates the criminal law applicable in Transkei.

(l) Magistrates' Courts Act No. 32 of 1944.—

Establishes the structure of magistrates' courts and determines the functioning of such courts, consolidates and amends laws relating thereto and also lays down the procedures to be followed.

(m) Public Service Act No. 43 of 1978 .-

Consolidates and amends the laws relating to the organization and administration of the public service, the regulation of the conditions of employment, tenure of office, discipline, retirement and discharge of members of the public service and other incidental matters.

(n) Commissions Act No. 8 of 1947.-

Makes provision for conferring certain powers on commissions appointed by the President for the purpose of investigating matters of public concern, and to provide for matters incidental thereto.

(o) Government Contractual Liabilities Act No. 17 of 1987.-

Prescribes certain essential requirements and formalities in respect of contracts or transactions involving a charge on the Transkei Revenue Fund; and provides for matters incidental thereto.

(p) Municipalities Act No. 24 of 1979.-

Provides for the establishment, control and administration of municipalities and for incidental matters.

(q) Transkei Authorities Act No. 4 of 1965.-

Varies the powers, authorities and functions of tribal and regional authorities, establishes local government bureaux, provides voluntary levies, defines duties, powers, authorities and functions of and provides a code of discipline for paramount chiefs, chiefs and headmen and also abolishes district councils.

(r) Townships Ordinance No. 116 of 1964.-

Regulates the establishment of townships and the sub-division of estates and provides for the preparation and approval of town-planning schemes.

(s) Proclamation R293 of 1962.-

Sets out the regulations for the administration and control of townships.

(t) Decree No. 3 (Interpretation Provisions) of 1988.-

Amends the Interpretation Act, 1980 so as to provide for the interpretation of certain words during the period Transkei remains under military rule and also for matters incidental thereto.

- (u) Decree No. 4 (Ombudsman) of 1988.—

Establishes the office of Ombudsman; provides for his appointment and determines his duties and powers and provides for matters connected therewith.

- (v) Decree No. 13 (Enforcement of Foreign Civil Judgements) of 1990.—

Provides for civil judgements given in designated countries to be enforced in Magistrates' courts in Transkei, repeals the Reciprocal Enforcement of Civil Judgements Act, 1966 and other matters incidental thereto.

- (w) Decree No. 15 (Reciprocal Service of Civil Process) of 1990.—

Provides for the reciprocal service of civil process in Transkei and designated countries and other matters incidental thereto.

- (x) Decree No. 16 (Reciprocal Enforcement of Maintenance Orders) of 1990.—

Provides for the reciprocal enforcement of maintenance orders made in Transkei and in designated countries; and other matters incidental thereto.

- (y) Decree No. 19 (Judges Remuneration and Conditions of Service) of 1990

Provides for the remuneration and conditions of service of judges of the Supreme Court of Transkei and also for the payment of benefits to the surviving spouses of judges in certain circumstances and also other matters connected therewith.

- (z) Admissions of Advocates Act No. 74 of 1964.—

Provides for the admission of persons to practise as advocates of the Supreme Court of South Africa and Transkei and other matters incidental thereto.

- (aa) Attorneys, Notaries and Conveyancers Admission Act No. 23 of 1934.—

Amends and consolidates the laws in force relating to the admission and practice of persons as attorneys-at-law, notaries public and conveyancers in the Courts.

- (bb) Exchequer and Audit Act No. 66 of 1975.—

Provides for the regulation of the collection, receipt, control, custody and issue of State moneys and the receipt, custody and control of other State property, the raising and repayment of loans by the State, the granting of

certain loans from the Transkeian Revenue Fund and the terms and conditions in regard to the repayment of such loans; the duties and powers of Treasury; and the appointment of the Auditor-General and auditing of accounts.

B. PROPERTY LEGISLATION

(a) Administration of Estates Act No. 66 of 1965.—

Consolidates and amends the law relating to the liquidation and distribution of the estates of deceased persons, the administration of trust property placed under the control of any person by a deceased persons — and it also regulates the rights of beneficiaries under mutual wills made by any two or more persons etc.

(b) Bantu Administration Act No. 38 of 1927.—

Provides for the better control and management of rural areas and for the control of land in such areas.

(c) Government Notice No. 1664 of 1929.—

Sets out the regulations for the administration and distribution of the estates of Black persons in Transkei.

(d) Deeds Registries Act, 1937 (Act 47 of 1937) as amended by Transkeian Deeds Registry Amendment Act, 1976 (Act 7 of 1976) and Transkeian Deeds Registry Further Amendment Act, 1976 (Act 13 of 1976).—

Consolidates and amends the laws in force in Transkei relating to the registration of deeds.

(e) Various proclamations governing land tenure in rural areas

(f) Acquisition of Immovable Property Control Act No. 21 of 1977.—

To control the acquisition of immovable property by certain persons, companies and bodies who are not Transkeian citizens.

(g) Companies Act No. 61 of 1973.—

To consolidate and amend the law relating to companies; and to provide for other matters incidental thereto.

(h) Decree No. 1 (Close Corporations) of 1992.—

To provide for the formation, registration, incorporation, management, control and liquidation of close corporations and other matters connected therewith.

(i) Income Tax Act No. 58 of 1962.—

Consolidates the law relating to the taxation of incomes and donations, taxes, etc. and to provide for the deduction by employers of amounts from the remuneration of employees in respect of certain tax liabilities of employees.

(j) Transkei Taxation Act No. 8 of 1969.—

To impose taxes on income and in respect of certain dwellings, to empower the President to impose a special tax on certain persons, to impose general stock tax and a general levy; to require employers to make deductions from remuneration of employees in respect of certain tax liabilities, provides for the making of provisional tax payments and provides for incidental matters.

(k) Taxation Adjustment Act No. 27 of 1976.—

Amend the Transkei Taxation Act, 1969, modifies certain provisions of the Income Tax Act, 1962 and provides for incidental matters.

(l) Decree No. 16 (Value-Added Tax) of 1991.—

Provides for taxation in respect of the supply of goods and services and their importation, amends the Transfer Duty Act, 1949, Stamp Duties Act, 1968; repeals Sales Tax Act 1980 and provides for other matters incidental thereto.

(m) Stamp Duties Act No. 77 of 1968.—

To consolidate and amend the law relating to stamp duties; and to amend the Marketable Securities Tax Act, 1948.

(n) Development Tax Act No. 7 of 1984.—

To impose a development tax on certain persons in Transkei.

(o) Decree No. 7 (Quitrent Adjustment) of 1991.—

To increase the rates of quitrent payable in terms of the various laws applicable in Transkei.

(p) Decree No. 3 (Immovable Property Taxation) of 1991.—

To impose a tax on immovable property situated within Transkei.

- (q) Decree No. 7 (Recovery of State Property or Loss) of 1988.-

To provide for the recovery of State property or its value which has been acquired in an irregular manner from or through the State as well as monies or assets in the custody or possession of the State which have been appropriated in an unauthorised or unlawful manner; to enable the Chairman of the Military Council to issue orders prohibiting the alienation or disposal of the property and assets of persons alleged to be involved in such irregular, unauthorised or unlawful dealing pending finalisation of such recovery proceedings.

- (r) Decree No. 8 (Reinsurance of Material Damage and Losses) of 1990.-

Empowers the Minister of Finance to enter into agreements with the Government of the Republic of South Africa providing for the recovery by the Government of the R.S.A. from Transkeian Government of amounts paid by the South African Government to the South African Special Risks Insurance Association with respect to the insurance business of the said Association in the Republic of Transkei.

- (s) Decree No. 9 (Rating of State Property) of 1991.-

Repeals and amends certain Acts granting exemption in respect of certain State property from rates levied on immovable property by local authorities; to provide that such rates may, notwithstanding certain other exemption, be levied on other State property; and to provide for matters connected therewith.

- (t) State Land Act No. 23 of 1979.-

To provide for the disposal of certain State land and for matters connected thereto and to prohibit the acquisition of the land by prescription.

- (u) Sea-shore Act No. 17 of 1979.-

To declare the State to be the owner of the sea-shore and the sea within the territorial waters of the Republic of Transkei; and to provide for the grant of rights in respect of the sea-shore and the sea and for alienation of portions of the sea-shore and the sea and for other matters incidental thereto.

C. ECONOMIC LEGISLATION(a) Customs and Excise Act No. 91 of 1964 -

To provide for the levying of customs, excise and sales duties, the prohibition and control of the importation, export or manufacture of certain goods and for matters incidental thereto.

(b) Licences Act No. 2 of 1978.-

To consolidate and amend the laws relating to the registration and licensing of businesses and to provide for incidental matters.

(c) Corporations Act No. 10 of 1985.-

To provide for the continuance of existing State corporations and the establishment of other corporations, to prescribe their objects and powers, to make provision for their financing, control and management and to provide for incidental matters.

(d) Decree No. 14 (Lotteries) of 1989.-

To provide for the promotion and conduct of a State lottery and other lotteries; to amend the Gambling Act, 1976; and to provide for matters incidental thereto.

(e) Decree No. 17 (Casinos) of 1990.-

To provide for the licensing of casinos, the regulation, control and supervision thereof; to amend the Income Tax Act, 1962; to amend the Licences Act, 1978 so as to make provision for the issue of an amusement machine licence; to amend the National Tourism Board Act, 1983 so as to make provision for the declaration of certain areas as tourist development areas and to provide for incidental matters.

(f) Decree No. 3 (Agricultural Bank of Transkei) of 1990.-

To establish the Agricultural Bank of Transkei for the purpose of promoting the agricultural, pastoral and agro-economic development of Transkei; to this end to render financial assistance in and in connection with farming and agricultural operations and activities; and to provide for incidental matters.

(g) Decree No. 4 (Orderly Control of Gambling) of 1990.-

To provide for the orderly control of gambling and the protection of vested interests (deals solely with the agreements entered into with Transun (Pty) Ltd).

(h) Liquor Act No. 37 of 1978.—

To consolidate and amend the laws for the control of the sale and supply of liquor.

(i) Marketing Act No. 9 of 1985.—

To provide for the establishment of the Transkei Agricultural Marketing Board; the definition of the objects, powers and functions of such Board; the regulation, undertaking and dealing with matters relating to the production, manufacture, processing, sale and distribution of agricultural products, the grading and standardization of agricultural products, and to provide for matters incidental thereto.

(j) Laws dealing with financial institutions and finance charges.—

To deal with the control of banks, building societies, insurance companies, Provident Funds, etc., and also deal with the control of the imposition of finance charges by financial institutions.

(l) Mining laws.—

Regulate mining activities in Transkei.

OTHER RELEVANT LEGISLATION(a) Transkeian Apprenticeship Act No. 10 of 1974.—

To regulate the training and employment of apprentices in certain trades in Transkei and to provide for matters incidental thereto.

(b) Decree No. 12 (Labour Relations) of 1980.—

To provide for the registration and regulation of employers' organisations and trade unions; the promotion of the process of collective bargaining; the prevention and settlement of disputes between employers and employees; the regulation of terms and conditions of employment by agreement, mediation and arbitration; the establishment of a National Manpower Commission and to define its functions; the establishment of an industrial court and to define its functions; the control of labour brokers; and for incidental matters.

(c) Wage Act No. 15 of 1977.—

To provide for the establishment of a Wage Board and the determination of terms and conditions of employment of certain persons, and for other incidental matters.

(d) Workmen's Compensation Act No. 20 of 1977.—

To amend and consolidate the laws relating to compensation for disablement caused by accidents to or industrial diseases contracted by workmen in the course of their employment or for death resulting from such accidents and diseases, to establish an accident fund and reserve fund and to provide for incidental matters.

(e) Training of Artisans Act No. 28 of 1977.—

To make provision for the training of persons other than minors as artisans, for the recognition of skilled persons as artisans and for matters incidental thereto.

(f) Factories, Machinery and Building Work Act No. 35 of 1978.—

To provide for the registration and control of factories, regulation of hours and conditions of work in factories, supervision of the use of machinery, precautions against accident to persons employed on building or excavation work, and for matters incidental thereto.

(g) Shops and Offices Act No. 3 of 1979.—

To consolidate and amend the law relating to the regulation of hours and conditions of work in shops and offices and for matters incidental thereto.

(h) Unemployment Insurance Act No. 11 of 1983.—

To provide for an Unemployment Insurance Fund, the payment of benefits to certain persons and the payment of certain amounts to dependants of certain deceased persons, and matters incidental thereto.

(i) Machinery and Occupational Safety Act No. 24 of 1985.—

To provide for the safety of persons at their workplace or in the course of their employment or in connection with the use of machinery; to establish an advisory council for occupational safety; and to provide for incidental matters.

(j) Medical, Allied and Supplementary Professions Act No. 30 of 1976.—

To provide for the establishment of the Transkeian Medical Council, for control over the training of and for the registration of medical practitioners, dentists, pharmacists and practitioners of supplementary professions; to provide for control over the training of and for the registration of psychologists; and to provide for matters incidental thereto.

(k) Nursing Act No. 6 of 1978.—

To regulate and control the exercise of the profession of a nurse or a midwife in Transkei and to provide for matters incidental thereto.

(l) Medicines and Related Substances Control Act No. 27 of 1978.—

To provide for the registration of medicines intended for human use, for the establishment of a Medicines Control Committee, for the establishment of a Medicines Control Appeal Board, for the control of medicines and Scheduled substances and for matters incidental thereto.

(m) Hazardous Substances Act No. 19 of 1981.—

To provide for the control of substances which may cause injury or ill-health to or death of human beings by reason of their toxic, corrosive, irritant, strongly sensitizing or flammable nature or the generation of pressure thereby in certain circumstances, and for the control of certain electronic products; to provide for the division of such substances or products into groups in relation to the degrees of danger; to provide for the prohibition and control of the importation, manufacture, sale, use, operation, application, modification, disposal or dumping of such substances and products; and to provide for matters connected therewith.

(n) Health Professions and Related Health Practices Amendment Act No. 15 of 1982.—

To amend the Medical, Allied and Supplementary Professions Act, 1976 in order to provide for the registration and control by the Transkeian Medical Council of related health practices; and to provide for incidental matters.

Mental Health Act No. 19 of 1981.—

To provide for the reception, detention and treatment of persons who are mentally ill, and to provide for incidental matters.

(p) Human Tissue Act No. 4 of 1985.—

To provide for the donation or the making available of human bodies and tissue for the purposes of medical or dental training, research or therapy or the advancement of medicine or dentistry in general; for the post-mortem examination of certain human bodies; for the removal of tissue, blood and gametes from the bodies of living persons and the use thereof for medical or dental purposes; for the control of the artificial insemination of persons; and for the regulation of the import and export of human tissue, blood and gametes; and to provide for matters connected therewith.

(q) Foodstuffs, Cosmetics and Disinfectants Act No. 6 of 1985.-

To control the sale, manufacture and importation of foodstuffs, cosmetics and disinfectants and to provide for incidental matters.

(r) Atmospheric Pollution Prevention Act No.14 of 1985.-

To provide for the prevention of the pollution of the atmosphere by noxious or offensive gases, smoke, dust and fumes omitted by vehicles; and for matters incidental thereto.

(s) Health Act No. 28 of 1985.-

To provide for measures to promote and protect the health of the inhabitants of Transkei; to that end to provide for comprehensive health services in Transkei; to define the duties, responsibilities and powers of the various authorities rendering health services in Transkei; to enable the establishment of advisory committees; to repeal the Public Health Act, 1919 and certain other laws in so far as they are still applicable; and to provide for incidental matters.

(t) Decree No. 18 (Homeopaths, Naturopaths, Osteopaths and Herbalists) of 1989.

To provide for the control of the practices of homeopathy, naturopathy, osteopathy and herbalist; and to provide for incidental matters.

(u) Education Act No. 26 of 1983.-

To provide for the control, administration and supervision of education and for matters incidental thereto.

(v) Archives Act No. 20 of 1976.-

To provide for the custody, care and control archives in Transkei and for incidental matters.

(w) Museums Act No. 28 of 1978.-

To provide for the establishment, control and management of State museums and the proper custody of collections, articles or objects of cultural or scientific value.

(x) National library Service Act No. 11 of 1977.-

To provide for the establishment of a National Library Service and for matters incidental thereto.

(y) Decree No. 6 (Transkei Sports Council) of 1989.-

To provide for the establishment of the Transkei Sports Council for the purpose of promoting and developing sport; to prescribe the constitution, the powers and functions of such Council; and to provide for incidental matters.

(z) Decree No. 8 (Transkei Sports and Educational Aid Trust) of 1989.-

To establish the Transkei Sports and Educational Aid Trust in order to assist in the promotion and development of sport and in the provision of educational facilities on a co-ordinated basis; to establish the Transkei Sports and Educational Aid Fund for that purpose, and to make provision for its financing and the administrative and financial control of the affairs of that Trust and that fund by a Board of Trustees; to define the composition, powers, functions, duties and responsibilities of that Board and to provide for incidental matters.

(aa) Marriage Act No. 21 of 1978.-

To consolidate and amend the laws relating to the solemnization and registration of civil marriages, to the consummation and registration of customary marriages, to the consequences of marriages, to the dissolution of marriages by the Court and to matters incidental thereto.

(bb) Customary Law of Succession.-

To be applied in proceedings involving questions of tribal customs followed by persons in Transkei - recognised in terms of section 53 of the Republic of the Transkei Constitution Act, 1976 (Act 15 of 1976).

(cc) Wills Act No. 7 of 1953.-

To consolidate and amend the law relating to the execution of wills.

(dd) Succession Act No. 13 of 1934.-

To amend the law of succession by stipulating the order of succession in instances where one of the spouses dies intestate.

ADDENDUM

CONSTITUTIONAL AND ADMINISTRATIVE LEGISLATION

(a) Citizenship of Transkei Act No. 26 of 1976.-

To prescribe the procedure with relation to the registration of any person as a citizen of Transkei; and to provide for the acquisition of citizenship of Transkei and for the renunciation, deprivation and loss of such citizenship; and further to provide for matters incidental thereto.

(b) Municipalities(Audit) No. 29 of 1978.-

To provide for the audit of accounts of municipalities.

ECONOMIC LEGISLATION

(a) Bills of Exchange Act No. 34 of 1964.-

To consolidate and amend the laws relating to bills of exchange, cheques and promissory notes.

(b) Hire-Purchase Act No. 36 of 1942.-

To make provision for the regulation of hire-purchase agreements and of instalments sales subject to resolute conditions, and for matters incidental thereto.

(c) Public Accountants' and Auditors' Act No. 29 of 1980.-

To provide for the establishment of a Public Accountants' and Auditors' Board, for the registration of public accountants and auditors, for the regulation of training of public accountants and auditors, and for other incidental matters.

OTHER RELEVANT LEGISLATION

(a) University of Transkei Act No. 23 of 1976.-

To establish a university in Transkei and to provide for the administration and control of its affairs, for the regulation of its activities and for matters incidental thereto.

(b) Abuse of Dependence-producing substances and Rehabilitation Centres Act