

BLACK AUTHORITIES ACT 68 OF 1951

(English text signed by the Governor-General)

*[Assented to: 27 June 1951]
[Commencement Date: 17 July 1951]*

as amended by:

Promotion of Black Self-government Act 46 of 1959
Black Affairs Act 55 of 1959
Black Laws Amendment Act 46 of 1962
Black Laws Amendment Act 76 of 1963
Black Laws Amendment Act 42 of 1964
Black Laws Amendment Act 56 of 1968
National States Citizenship Act 26 of 1970
Second Black Laws Amendment Act 27 of 1970
National States Constitution Act 21 of 1971
Exchequer and Audit Act 66 of 1975
Second Black Laws Amendment Act 102 of 1978
Black Communities Development Act 4 of 1984
Regional and Land Affairs General Amendment Act 89 of 1993

Note: The Act has been amended by s. 80 of Act 42/1964, by the substitution for the words “Governor-General” and “Union” wherever they occur of the words “State President” and “Republic” respectively.

Note: The Act has been amended by s. 17 of Act 102/1978, by the substitution for the word “Bantu” wherever it occurs of the word “Black” or “Blacks” as the context in question may require. (General substitution: “wherever it occurs in any law as a reference to a person or persons”)

ACT

To provide for the establishment of certain Black authorities and to define their functions, to abolish the Black Representative Council, to amend the Black Affairs Act, 1920, and the Representation of Blacks Act, 1936, and to provide for other incidental matters.

BE IT ENACTED by the King’s Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa as follows:-

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1. Definitions

In this Act-

“Black area” means any area consisting of land referred to in sub-section (1) of section *twenty-one* of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or any scheduled Black area as defined in that Act;

[Definition of “Black area” inserted by s. 9 of Act 46/1959]

“chief” means a person duly appointed or recognized as a chief under sub-section (7) of section two of the Black Administration Act, 1927 (Act No. 38 of 1927), and includes any person appointed under sub-section (8) of that section to act temporarily in the place of such a chief;

“councillor” means a person recognized or appointed as a member of a tribal authority;

[Definition of “councillor” substituted by s. 39 of Act 21/1971]

“headman” means a person duly appointed as a headman under sub-section (8) of section two of the Black Administration Act, 1927 (Act No. 38 of 1927), and includes any person appointed under that subsection to act temporarily in the place of such a headman;

“Minister” means the Minister of Regional and Land Affairs;

[Definition of “Minister” substituted by s. 9 of Act 46/1959 and s. 5 of Act 89/1993]

“regional authority” means a Black regional authority established under paragraph (6) of sub-section (1) of [section two](#);

“territorial authority” means a Black territorial authority established under paragraph (c) of subsection (1) of [section two](#);

“territorial board” means a territorial board established under sub-section (1) of [section seven bis](#).

[Definition of “territorial board” inserted by s. 9 of Act 46/1959]

“tribal authority” means a Black tribal authority established under subparagraph (i) of paragraph (a) of [section 2](#)(1) and a community authority established under subparagraph (ii) of the said paragraph.

[Definition of “tribal authority” substituted by s. 77 of Act 42/1964 and s. 39 of Act 21/1971]

[\(Section 2: Decided cases\)](#)

2. Establishment of tribal, regional and territorial authorities

(1) The State President may-

[\(Section 2\(1\)\(a\): Decided cases\)](#)

- (a) with due regard to Black law and custom -
 - (i) establish a Black tribal authority in respect of a Black tribe;
 - (ii) establish a community authority in respect of a Black community or two or more Black tribes or communities jointly or one or more tribes and one or more such communities jointly;
[Para. (a) substituted by s. 78 of Act 42/1964]
- (b) in respect of any two or more areas for which tribal authorities have been established, establish a Black regional authority; and
- (c) in respect of any two or more areas for which regional authorities have been established, establish a Black territorial authority;

Provided that no community, tribal, regional or territorial authority shall be established, except after the Minister has consulted the Black in every area in respect of which such authority is to be established.

[Subs. (1) amended by s. 78 of Act 42/1964]

(2) A tribal authority shall be established in respect of the Black area assigned to the chief or headman of the Black tribe concerned, and a community authority shall be established in respect of the Black area or areas assigned to the Black community or Black tribes or communities concerned: Provided that where a community authority is established in respect of two or more Black tribes or communities or portions of Black tribes or communities

jointly, it shall be established in respect of the Black area or areas assigned to such tribes or communities or such portions of tribes or communities.

[Subs. (2) amended by s. 10 of Act 46/1959 and substituted by s. 78 of Act 42/1964]

- (3) The establishment of a tribal, community, regional or territorial authority, and the Black area or areas in respect of which it has been established, and any modification of any such area or areas, shall be made known by notice in the *Gazette*, and a copy of the *Gazette* containing such notice shall on its mere production in any legal proceedings be prima facie proof, in the case of the establishment of an authority, that the authority mentioned in the notice has been lawfully established for the area or areas so mentioned in accordance with the provisions of this Act, or in the case of a modification of any area or areas, that the modification so mentioned has been lawfully effected in accordance with the said provisions.

[Subs. (3) substituted by s. 78 of Act 42/1964 and s. 5 of Act 56/1968]

[\(Section 3: Decided cases\)](#)

3. Constitution of tribal, regional and territorial authorities

[\(Section 3\(1\)\(a\): Decided cases\)](#)

- (1) (a) If there exists in a Black tribe or community a tribal or community government

functioning in accordance with the law and customs observed by that tribe or community, the tribal or community authority, as the case may be, established in terms of [section 2\(1\)\(a\)](#) shall consist of that government.

- (b) If there does not exist in a Black tribe or community (including two or more such tribes or communities jointly or one or more such tribes and one or more such communities jointly as contemplated in [section 2\(1\)\(a\)\(ii\)](#)) any government referred to in paragraph (a), or if there exists in any such tribe or community such government but it is considered expedient at any time to replace that government, the tribal or community authority, as the case may be, established in terms of [section 2\(1\)\(a\)](#) shall be constituted in the manner determined by the State President.

- (c) A regional or territorial authority shall, subject to the provisions of subsection (3) of this section, consist of a chairman, designated as such by the State President, and so many members as may be determined by the State President.

[Subs. (1) substituted by s. 79 of Act 42/1964 and s. 39 of Act 21/1971]

- (2)

[Subs. (2) amended by s. 79 of Act 42/1964 and deleted by s. 39 of Act 21/1971]

- (3) The chairman and the members of a regional authority shall be elected or selected in the manner prescribed by regulation from amongst the chiefs, headmen and councillors of the tribal authorities for the areas in respect of which such regional authority is established, and the chairman and the members of a territorial authority shall be elected or selected in the manner so prescribed from amongst the members of the regional authorities for the areas in respect of which such territorial authority is established.
- (4) The Minister may, subject to the provisions of the regulations, cancel the appointment of any councillor or any member of a regional or territorial authority if after an enquiry held by an officer of the public service appointed by the Minister for that purpose, at which such councillor or member shall be entitled to be heard, he is satisfied that such councillor or member is negligent in the performance of his duties or that, for any other reason, the removal of such councillor or member from his office is desirable in the general interests of Blacks in any area in respect of which the tribal, regional or territorial authority concerned has been established.
- (5)
[Subs. (5) deleted by s. 79 of Act 42/1964]
- (6)
[Subs. (6) deleted by s. 79 of Act 42/1964]
- (7) The Minister may designate one or more officers in the public service to act in a supervisory capacity in relation to any regional or territorial authority, and an officer so designated may attend any meeting of the authority concerned, and, in the case of an officer so designated in respect of a regional authority, also any meeting of the territorial authority having jurisdiction within an area for which such regional authority has been established, and take part in the proceedings at that meeting, but shall not have the right to vote thereat.

[\(Section 4: Decided cases\)](#)

4. Powers, functions and duties of tribal authority

- (1) A tribal authority shall, subject to the provisions of this Act-
 - (a) generally administer the affairs of the tribes and communities in respect of which it has been established;

[\(Section 4\(1\)\(b\): Decided cases\)](#)

- (b) render assistance and guidance to its chief or headman in connection with the performance of his functions, and exercise such powers and perform such functions and duties, including any of the powers, functions or duties conferred or imposed upon its chief or headman under any law, as are in accordance with any applicable Black law or

custom, or in terms of any regulations, required to be exercised or performed by such tribal authority;

- (c) advise and assist the Government and any territorial or regional authority having jurisdiction in any area for which such tribal authority has been established, in connection with matters relating to the material, moral and social well-being of Blacks resident in that area, including the development and improvement of any land within that area;
- (d) generally exercise such powers and perform such functions and duties as in the opinion of the State President fall within the sphere of tribal administration and as he may assign to that tribal authority.

[\(Section 4\(2\): Decided cases\)](#)

(2) Subject to the provisions of any regulations-

- (a) a tribal authority shall exercise its powers and perform its functions and duties with due regard to the rules, if any, applicable in the case of similar bodies in terms of the Black laws or customs of the respective tribes or communities in respect of which such authority has been established;
 - (b) the chief or headman in respect of any tribal authority shall exercise his powers and perform his functions and duties, including any powers, functions and duties vested in him by virtue of any law, with due regard to such rules.
- (3) No judgment, decision or direction given or order made by a chief or headman, or the deputy of a chief, in the exercise of jurisdiction conferred upon him by or under any law, shall be deemed to be invalid by reason of its having, in consequence of the operation of sub-section (1) or (2), been given or made by such chief, headman or deputy acting on the advice or with the consent or at the instance of a tribal authority, and any judgment, decision or direction so given or order so made shall for all purposes be deemed to have been given or made by such chief, headman or deputy.

[\(Section 5: Decided cases\)](#)

5. Powers, functions and duties of regional authorities

- (1) A regional authority shall have power-
 - (a) to advise and make representations to the Government in regard to all matters affecting the general interests of Blacks within any area under the jurisdiction of such authority;

[Para. (a) amended by s. 11 of Act 46/1959]

- (b) subject to the provisions of any regulations, and to the directions of the Minister, to provide for-
 - (i) the establishment, maintenance, management and conduct of educational institutions, and the advancement of scholastic and other education;
 - (ii) the construction and maintenance of roads, bridges, drains, dams, furrows and any works which it may consider necessary for purposes of sanitation or for ensuring satisfactory water supplies or for preventing or combating soil erosion;
 - (iii) the suppression of diseases of stock by the construction, maintenance and operation of dipping tanks and in any other manner it may consider necessary;
 - (iv) the establishment, maintenance, management and conduct of hospitals, clinics and other similar institutions;
 - (v) the improvement of farming and agricultural methods generally;
 - (vi) afforestation; and
 - (vii) generally all such matters as in the opinion of the State President are within the sphere of regional administration and as he may assign to such regional authority.
- (2) Any such authority may make bye-laws in regard to any matter within its purview in terms of paragraph (b) of subsection (1), including bye-laws prescribing fees for services rendered by such authority or rates payable by any specified class of persons in respect of services made available by such authority: Provided that no such bye-law shall have any force or effect until it has been approved by the State President and made known by notice in the *Gazette*, and that the State President may, before approving of any bye-law, refer it back to the authority concerned for consideration and thereafter amend it in such manner as he may deem fit or make additional bye-laws or amend or repeal any existing bye-law.
- (3) A bye-law which is amended by the State President before approval thereof under sub-section (2), shall be deemed to have been duly made in the amended form by the regional authority concerned, and any additional bye-law made or amendment or repeal of an existing bye-law effected by the State President in giving any such approval, shall be deemed to have been duly made or effected by that authority.

- (4) Whenever a regional authority fails to make bye-laws in regard to any matter referred to in paragraph (b) of sub-section (1) or in sub-section (2), the Minister may, after a local enquiry held in public by an officer in the public service designated by him for the purpose, at which such authority shall be entitled to be heard, by notice in writing require that authority to make such bye-laws and to submit such bye-laws for the approval of the State President under sub-section (2), and if that authority fails to make such bye-laws and to submit them for such approval within a period of six months after the date of the notice, the Minister may himself make such bye-laws.
- (5) Any bye-laws made by the Minister under sub-section (4), shall be deemed to have been duly made by the regional authority concerned.
- (6) A regional authority shall have power to acquire and hold land or any interest in land as it may deem necessary for the purpose of performing its functions and duties.
- (7) The State President 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 State President otherwise provides in such proclamation or by subsequent proclamation in the *Gazette*.

[Subs. (7) added by s. 11 of Act 46/1959]

6. Levy of rates by regional authority

- (1) A regional authority shall have power with the approval of the State President to levy a rate not exceeding one pound in any one year upon each male adult Black ordinarily resident in any area in respect of which such authority has been established.
- (2) No such rate shall have any force or effect until it has been made known by notice in the *Gazette*.

(Section 7: Decided cases)

7. Powers, functions and duties of territorial authorities

- (1) A territorial authority -
 - (a) shall maintain the closest possible contact with the commissioner-general appointed for the national unit in question under the Promotion of Black 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 Black 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;
- (d) shall have power at any time to convene a conference of the population within its area 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 Black 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 Black 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 Blacks; 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 committed of such an authority or any Black designated by it;

[Para. (f) amended by s. 14 of Act 26/1970]
- (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 State President by proclamation in the *Gazette*, and such other powers, functions and duties relating to the conduct of Black 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; and

[Para. (g) amended by s. 14 of Act 26/1970]

- (h) shall have power to issue or to cause to be issued, in terms of the Black Homelands Citizenship Act, 1970, a certificate of citizenship referred to in section 5 of that Act, to any citizen of its area, and under section 9 of that Act to object to any determination referred to in that section and to appeal against any decision of a designated officer or person referred to therein.

[Para. (h) added by s. 14 of Act 26/1970]

- (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);
 - (b) any matter in respect of which the State President 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 State President 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 State President 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 State President 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 State President or the Minister, as the circumstances may require.
- (6) A territorial authority may, in addition to any ra