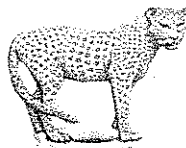
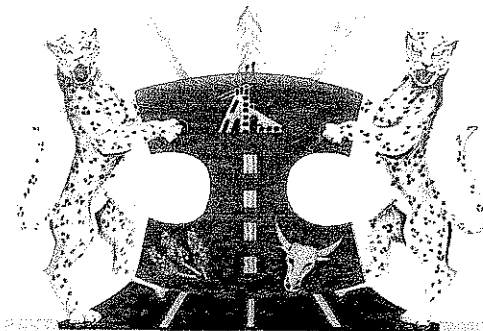
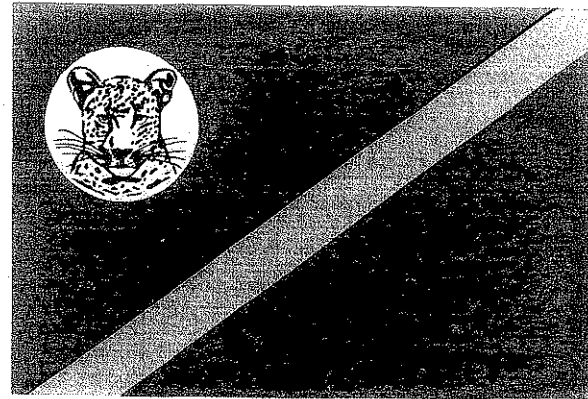


CONSTITUTION

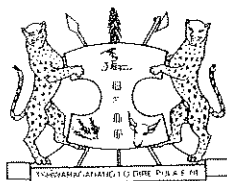


OP 12095

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TSIWARAGANANG LO DRE PULAENE



**REPUBLIC
OF
BOPHUTHATSWANA
CONSTITUTION
AS AMENDED BY**

Act 1 of 1978; Act 21 of 1979; Act 54 of 1979;
Act 14 of 1980; Act 42 of 1980; Act 52 of 1980;
Act 55 of 1980; Act 12 of 1981; Act 26 of 1981;
Act 31 of 1982; Act 3 of 1983 and Act 16 of 1984

ACT

To constitute the Republic of Bophuthatswana

PREAMBLE

WHEREAS we the representatives of the people of Bophuthatswana, in humble recognition of the sovereignty of the Almighty God, who in His eternal wisdom has determined that our people should dwell on this southern part of the African continent where we shall always seek our future destiny in closer constitutional and political unity with other people and governments, have resolved to constitute ourselves in a National Convention and to frame a constitution for the independent Republic of Bophuthatswana;

WHEREIN the State should exercise its powers and authority through the chosen representatives of the people;

WHEREIN should be secured to all the people their fundamental rights;

NOW THEREFORE be it enacted by the Bophuthatswana Legislative Assembly, as follows:—

CHAPTER 1

REPUBLIC OF BOPHUTHATSWANA

1.(1) Bophuthatswana is a sovereign independent state and a republic which accepts the principles of democracy and an economy based on private and communal ownership and free enterprise.

Establishment of
Republic of
Bophuthatswana

(2) Mmabatho shall be seat of government.

2. There shall be a National Flag of Bophuthatswana of which the design shall be cobalt blue background, divided diagonally from top left to bottom right by a cadmium stripe the width of which is equal to one-twelfth of the length of the flag in the top right corner a white circular shaped insert with diameter one quarter of the length of the flag and with the centre point on an imaginary line bisecting this corner and midway between the corner and the diagonal stripe. On this white insert the face of a leopard in black lines.

National Flag

3. The National Anthem of Bophuthatswana shall be "Lefatshe la Borrarona" in the version set out in Schedule I.

National Anthem

4. The Coat of Arms of Bophuthatswana shall be as described in Schedule 2.

Coat of Arms

Languages

5. Tswana, English and Afrikaans shall be the official languages of Bophuthatswana.

Territory

6. Bophuthatswana is comprised of the districts mentioned in Schedule 3, together with such other land as may be added thereto.

Supreme law

7. (1) This Constitution shall be the supreme law of Bophuthatswana.

(2) Any law, passed before or after the commencement of this Constitution, which is inconsistent with the provisions of this Constitution, shall, to the extent in which such an inconsistency exists, be void.

[Sub-s. (2) substituted by Section 1 of Act No. 16 of 1984 and is deemed to have come into operation on the sixth day of December 1977]

CHAPTER 2

DECLARATION OF FUNDAMENTAL RIGHTS

Enforcement of rights

8.(1) The following fundamental rights are binding on the legislature, the executive and the judiciary, and are directly enforceable by law.

(2) Any person may apply to the Supreme Court by appropriate proceedings to enforce the rights conferred under the provisions of this Declaration.

(3) The Supreme Court shall have the power to make all such orders as may be necessary and appropriate to secure to the applicant the enjoyment of any of the rights conferred under the provisions of this Declaration.

Equality before the law

9. All people shall be equal before the law, and no one may because of his sex, his descent, his race, his language, his origin or his religious beliefs be favoured or prejudiced.

Right of life

10.(1) Everyone's right of life shall be protected by law and no one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

(2) Deprivation of life shall not be regarded as inflicted in contravention of this section when it results from the use of force which is no more than absolutely necessary —

(a) in defence of any person from unlawful violence;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Punishment

11. No one shall be subjected to torture or to inhuman and degrading treatment or punishment.

12.(1) No one shall be held in slavery or servitude.

(2) No one shall be required to perform forced or compulsory labour provided that this shall not include —

(a) any work required to be done in the ordinary course of detention imposed under the provisions of sub-section 3 or during conditional release from such detention;

(b) any service of a military character in terms of a law requiring citizens to undergo military training;

(c) any service exacted in case of an emergency or calamity threatening the existence or well-being of Bophuthatswana;

(d) any work or service which forms part of normal civic obligations imposed by law.

(3) Everyone has the right to liberty and security of person and no one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so, provided that such a person shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within reasonable time or to release pending trial, and that release may be conditioned by guarantees to appear for trial;

(c) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(d) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts, or vagrants;

(e) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

Right of liberty and freedom

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into Bophuthatswana or of any person against whom action is being taken with a view to deportation or extradition.

(g) lawful detention in the interests of national security or public safety.

[Para (g) inserted by S.1 of Act No. 21 of 1979]

(4) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

(5) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided promptly by a court and his release ordered if the detention is not lawful.

(6) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law; judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

(7) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law, and shall have the following minimum rights:—

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or, unless a law otherwise provides, through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free of charge when the interests of justice so require.

(8) No one shall be guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under the law in force at the time when it was committed, nor shall a penalty be imposed exceeding that which was applicable at the time the criminal offence was committed.

13.(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

Respect for private and family life

(2) There shall be no interference by a public authority with the exercise of such a right except in so far as it is in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well-being of Bophuthatswana, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.

(3) The system of education shall be controlled by the State, but private educational institutions may, on application, in the discretion of the Government and subject to such conditions as the Government may deem fit, be allowed where such institutions in their educational aims and standards are not inferior to state institutions.

14.(1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

Freedom of thought, conscience and religion

(2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedom of others.

15.(1) Everyone has the right to freedom of expression; this right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontier but this provision shall be subject to the requirements for the licensing of broadcasting, television or cinema enterprises.

Freedom of expression

(2) The exercise of the right of expression, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

16.(1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others.

Freedom of assembly

(2) No restrictions shall be placed on the exercise of such rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedom of others and the provisions of this section shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of Bophuthatswana.

Protection of property

17.(1) The right to own and possess private and communal property is protected.

(2) Expropriation shall be authorised only in terms of an Act of Parliament, if it is for the public benefit and if reasonable compensation is paid.

Restriction of fundamental rights

18.(1) The rights and freedom referred to in sections 9 to 17 may be restricted only by a law of Parliament and such a law shall have a general application.

(2) Except for the circumstances provided for in this Declaration, a fundamental right and freedom shall not be totally abolished or in its essence be encroached upon.

CHAPTER 3

THE PRESIDENT

Office of President

19. The Head of State of Bophuthatswana is the President, who shall represent and serve Bophuthatswana and its people.

Powers of President

20.(1) The President is the executive Head of Government and commander-in-chief of the defence forces of Bophuthatswana.

(2) The President, in his capacity as commander-in-chief of the defence forces of Bophuthatswana, may, subject to such conditions as may be prescribed by or under any law —

- (a) mobilize and call out the defence forces or any part thereof for operational purposes or otherwise for the maintenance of law and order, the preservation of the peace, the protection of life, health or property or the provision or continuance of essential services; and
- (b) confer commissioned ranks in the defence forces on any person serving or qualified to serve therein and give to such person a commission under his hand.

(3) The President shall in addition to the other provisions of this Constitution, further have power —

- (a) to confer honours;
- (b) to appoint and to accredit, to receive and to recognise ambassadors, plenipotentiaries, diplomatic representatives and other diplomatic officers, consuls and consular officers;
- (c) to pardon or reprieve offenders, either conditionally or unconditionally and to remit any fines, penalties or forfeitures;
- (d) to enter into and ratify international conventions, treaties and agreements;
- (e) to proclaim and terminate martial law;
- (f) to declare war and make peace; and
- (g) to make such appointments as he may determine under powers vested in him by any other law and to exercise such other powers as may be vested in him and perform such other functions as may be assigned to him, by any other law.

21.(1) The President shall be directly elected, as hereinafter provided, by general suffrage of persons who are registered as voters as contemplated by section 22B(3) of this Constitution: Provided that the preceding provisions of this subsection shall not affect the validity of the election of the President who is in office upon the commencement of the Republic of Bophuthatswana Constitution Amendment Act, 1984, which President shall for all purposes in law be deemed to have been duly elected by general suffrage as hereinafter before contemplated.

Election of President

(2) The election of a President shall have taken place on a date which, subject to the provisions of section 22 or 22A —

- (a) except in the circumstances referred to in paragraph (b) or (c) of this subsection, shall not be later than one month or earlier than two months before the expiration of the term of office of the serving President;
- (b) in the case where the election of a President is necessitated by reason of the fact that the office of President has become vacant because the incumbent thereof had died or due to his removal from office in terms of section 25, shall not be earlier than two and not later than three months as from the date upon which such a vacancy first arose;

- (c) in the case where an incumbent of the office of President has lodged his written resignation with the Speaker in terms of section 24(1) shall not be earlier than two and not later than three months as from the date of such lodgement.

(3) Whenever in terms of this Constitution the election of a President has to take place, the Speaker shall, by notice in the **Gazette** and in at least one newspaper circulating in each district —

- (a) proclaim such election and determine a date, time and place upon and at which a nomination court shall sit for the purpose of dealing with nominations lodged or received in respect of persons proposed as candidates for such election in terms of section 22: Provided that the day so determined shall not be earlier than thirty days after the date of such a notice; and
- (b) make known the procedure prescribed in section 22(1) in relation to nominations; and
- (c) call upon persons who are qualified to be registered as voters in terms of the Electoral Act, 1979 (Act 13 of 1979), to register themselves as voters; for the purposes of the aforesaid election, *mutatis mutandis* in accordance with the provisions of that Act, not later than the date specified in such notice, which date shall not be earlier than thirty days after the date of such notice, and upon the date so specified, such registration shall be suspended;

(4) No person may be nominated for or be elected as President unless he —

- (a) is a citizen of Bophuthatswana by birth or descent;
- (b) is of or above the age of forty-five years; and
- (c) is a member of the National Assembly (other than a member referred to in section 39(1)(c) who has served as such a member for a continuous period of seven years or for a non-continuous period of ten years in all, or had been such a member of the National Assembly who had served as a member thereof for such a period and is not subject to any of the disqualifications mentioned in section 42(c), (d) or (e): Provided that for the purposes of electing a President any reference in this paragraph to the National Assembly shall be con-

strued so as to include a reference to the Bophuthatswana Legislative Assembly.

[Sub-s. (4)(b) substituted by s. 1(b) of Act No. 31 of 1982 and sub-s. (4) substituted by s. 1 of Act No. 26 of 1981 Sub-ss. (1), (2), (3) and (4) substituted by s. 2 of Act No. 16 of 1984]

(5) Any person holding any public office (other than membership of the National Assembly) in respect of which he receives any remuneration or allowance out of public funds, who is elected as President, shall not hold such office during his term as President: Provided that a chief or headman so elected, shall retain his title as chief or headman.

[Sub-s. 5 substituted by s.1 of Act No. 26 of 1981]

22.(1) No person shall become a candidate for election to the office of the President unless —

Nomination
procedure

- (a) he has been duly proposed as such a candidate in a nomination paper —
 - (i) signed by the chairman and the secretary of or at the national congress or meeting of a political party, association of persons, organisation or body which is a registered political party in terms of the Electoral Act, 1979 (Act 13 of 1979), in the case where such person has been designated by such congress or meeting as the official candidate of such registered political party; or
 - (ii) which, where the person so proposed is not a person who has been designated as the official candidate of a registered political party as contemplated by subparagraph (i), shall be signed by two persons registered as voters in terms of the Electoral Act, 1979, and be accompanied by a list or lists containing the names and signatures of at least one thousand persons so registered as voters, who support the nomination of the person so proposed, each one of such signatures which shall have been authenticated by a commissioner of oaths or a justice of the peace after sufficient proof of identity had been submitted to him; and
 - (iii) in which the proposed candidate, under his signature, conveys that he consents to his nomination;
- (b) such nomination paper, accompanied by documentary proof in regard to the matters referred to in section 21(4), and, where applicable, also by the list or lists contemplated by paragraph (a)(ii) of this subsection, is lodged with the

Registrar of the Supreme Court, who shall be the secretary of the nomination court, not later than seven days prior to the date determined in terms of section 21(3), or is received by the nomination court on the date so determined; and

- (c) the nomination court has, in terms of subsection (4) of this section, declared the proposed candidate to be duly nominated.

(2) A nomination court under the chairmanship of a judge of the General Division of the Supreme Court shall sit on the day determined by notice in terms of section 21(3) and, where applicable, on any day to which the proceedings have been adjourned in terms of subsection (6) of this section, for the purpose of considering the nominations of candidates for election to the office of President, and in relation to such nominations, to exercise and perform such powers, functions and duties as hereinafter provided.

(3) The nomination court shall reject—

- (a) the nomination of any person in respect of whom it has not been proved to the satisfaction of such court, that he is qualified in terms of section 21(4); and
 - (b) any nomination in respect of which the requirements of subsection (1)(a) and (b) of this section have not been complied with,
- and shall accept the nomination of any proposed candidate whose nomination has not been so rejected.

(4) Where the nomination court has, in terms of subsection (3) of this section, accepted the nomination —

- (a) of only one proposed candidate, the nomination court shall declare such candidate to be duly nominated, in which event he shall be deemed to have been elected to the office of President unopposed;
- (b) of two or more proposed candidates, the nomination court shall declare to be duly nominated every such candidate who has, before termination of the proceedings before the court, deposited with the secretary of that court an amount of five thousand rand, whether in cash or by way of banker's cheque and, if —
 - (i) only one of the proposed candidates is declared to be duly nominated in terms of the preceding provisions of this paragraph, the provisions of paragraph (a) of this sub-

section shall *mutatis mutandis* apply, whereupon the amount so deposited shall forthwith be refunded to him; or

- (ii) any two or more or all of the proposed candidates are so declared to be duly nominated, a poll shall be held in respect of them in accordance with the provisions of section 22B.

(5)(a) A proposed candidate may withdraw his consent to nomination at any time before the termination of the proceedings before the nomination court by lodging with the chairman of that court a notice of such a withdrawal under his signature, whereupon the nomination of such candidate shall lapse.

(b) No candidate may withdraw his candidature at any time after he has been declared duly nominated by the nomination court in terms of subsection (4), and any candidate who purports to do so shall remain capable of being elected President.

(6) If, on the day determined by notice in terms of section 21(3) —

- (a) none of the proposed candidates has been declared to be duly nominated in terms of subsection (4) of this section or there are no nominations before the nomination court for its consideration, the nomination court shall adjourn the proceedings to a date fourteen days thence for the purpose of receiving proper or further nominations (as the case may be) on such date, and shall, where circumstances so require, further adjourn the proceedings for such a period, until such time as it has, within the contemplation of subsection (4) of this section, declared any proposed candidate to be duly nominated;
- (b) the nomination court is satisfied that a proposed candidate had died after a nomination paper had been lodged in respect of him in accordance with the provisions of subparagraph (ii) of subsection (1)(b) of this section, and that the nomination of such candidate would have been accepted by such court in terms of subsection (3) of this section had such candidate not died, such court, on the application of the signatories of such nomination paper or the voters represented by them, shall adjourn the proceedings before such court to a date twenty-one days thence for the purpose of enabl-

Procedure
where duly
nominated
presidential
candidate dies

ing the applicants to tender to such court on such date a nomination paper and such other documents as may be required by this section in relation to the nomination of candidates.

[S.22 substituted by s.3 of Act 16 of 1984]

22A.(1) Where a candidate referred to in section 22(4)(b)(ii) dies before the commencement of the polling period, the signatories of the nomination paper in respect of him shall forthwith notify the secretary of the nomination court of the death of such candidate, and furnish the necessary proof thereof, whereupon the further proceedings in relation to the election shall be suspended for a period of twenty-one days, subject to the provisions of this section, so as to enable such signatories or the voters represented by them to nominate another candidate, and for that purpose to tender to the nomination court, on a date twenty-one days as from the day of such death, a nomination paper and such other documents as may be required by section 22 in relation to the nomination of candidates.

(2) The secretary of the nomination court shall, upon receipt of a notification in terms of subsection (1), forthwith inform the Speaker accordingly, whereupon the Speaker shall, by publication in the **Gazette** and in at least one newspaper circulating in each district —

- (a) give notice of the death of the candidate concerned, and that further proceedings in relation to the election are suspended until the expiration of the period of twenty-one days, as contemplated by subsection (1);
- (b) specify the date, contemplated by subsection (1), upon which, and the time and place at which, the signatories or voters referred to in that subsection shall be entitled to propose the nomination of an alternative candidate before the nomination court; and
- (c) withdraw any notice which may have been published, in terms of section 22B(1)(b), in relation to the poll at which the deceased would have been a candidate had he not died before the commencement of the polling period determined in the later notice.

(3) If, on the day specified in terms of subsection (2) of this section —

- (a) the nomination court has received a nomination in respect of an alternative candidate as contemplated by subsection (1) of this section, the

nomination court shall consider and reject or accept such nomination (as the case may be) *mutatis mutandis* in accordance with the provisions of subsection (3) of section 22, and shall, where it has accepted such nomination and such alternative candidate has deposited an amount of five thousand rand *mutatis mutandis* in accordance with the provisions of section 22(4)(b), declare such alternative candidate to be duly nominated, in which event a poll shall be held, in accordance with the provisions of section 22B, in respect of the said alternative candidate and such of the candidates referred to in section 22(4)(b)(ii) as remain (hereinafter referred to as the surviving candidates) after the death of the deceased candidate; or

- (b) the nomination court has not received a nomination in respect of an alternative candidate or the alternative candidate proposed has not been declared to be duly nominated, and —
 - (i) there is only one surviving candidate, such surviving candidate shall be deemed to have been elected to the office of President unopposed; or
 - (ii) there are two or more surviving candidates, a poll shall be held in respect of them in accordance with the provisions of section 22B.

(4) The Speaker shall, on being satisfied that a duly nominated candidate has died during the polling period, forthwith terminate the proceedings relating to and arising from the election, whereupon all proceedings in terms of the provisions of this Constitution in relation to the election of the President, shall be commenced afresh: Provided that persons whose names have been entered on a voters' roll prepared in terms of section 22B(3) for the purposes of the election which has been terminated in terms of this subsection, shall, for the purposes of the election proceedings to be commenced afresh, be deemed to have been duly registered as voters as required by section 21(3)(c), and their names shall be transferred to the voters' roll to be prepared afresh in accordance with the lastmentioned section.

22B.(1) The Speaker shall, by notice in the **Gazette** and in at least one newspaper circulating in each district —

- (a) in the case where a candidate is deemed in terms of section 22 or 22A to have been elected to the office of President unopposed, make known the

Provisions
relating to
polling and
result of
election

- name and address of the person so elected; or
- (b) in the case where a poll is to be held in respect of two or more candidates, as contemplated by section 22(4)(b)(ii) or section 22A(3)(a) or (b)(iv) —
- (i) make known the names and addresses of such candidates;
 - (ii) determine the period during which such poll shall be held, by referring to the day or every consecutive day upon which polling shall take place (in this Constitution referred to as the polling period), and fix the times at which polling shall commence and close during the polling period;
 - (iii) declare the places specified in such notice to be polling stations for the purposes of such a poll; and
 - (iv) make known the name and official address of the person appointed as returning officer in terms of subsection (2) of this section.
- (2)(a) The Secretary for Internal Affairs shall, within seven days as from the date upon which the nomination court has in terms of section 22 declared two or more candidates to be duly nominated, appoint a suitable person to be the returning officer for the purposes of the poll to be held in respect of such candidates in terms of this Chapter and forthwith inform the Speaker of such appointment.
- (b) Subject to the provisions of this Constitution, the returning officer appointed in terms of paragraph (a) of this subsection shall, in relation to a poll referred to in that paragraph, have the same rights, powers, privileges, functions and duties as those conferred and imposed on a returning officer by the Electoral Act, 1979, in relation to a poll held for the purposes of electing the members of the National Assembly.
- (3) The Secretary for Internal Affairs shall, upon the suspension of the registration of voters in terms of paragraph (c) of section 21(3), prepare a voters' roll containing the names and addresses of all persons who have registered themselves as voters in compliance with the notice contemplated by that paragraph (hereinafter referred to as registered voters), and forward a copy of such voters' roll to every polling station referred to in subparagraph (iii) of subsection (1)(b) of this section.

(4) For the purposes of —

- (a) a poll referred to in subsection (1)(b) —
- (i) no person other than a registered voter shall be entitled to vote;
 - (ii) voting shall be by secret ballot;
 - (iii) every registered voter shall be entitled to cast only one vote and may vote for only one candidate; and
 - (iv) a registered voter may cast his vote at any polling station referred to in subsection (1)(b)(iii) of this section; and
- (b) the election of a President, the provisions of sections 31 to 36 inclusive, 38 to 41 inclusive, 44 and 45, and 50 to 67 inclusive, of the Electoral Act, 1979, shall, subject to the provisions of this Constitution, *mutatis mutandis* apply.

(5) The Speaker shall, as soon as the result of a poll has been determined, publicly declare the candidate who has obtained the highest number of votes at the poll to be duly elected as President and state the number of votes polled for each candidate, and shall, within seven days of such a declaration, cause a notice to this effect to be published in the *Gazette* and in at least one newspaper circulating in each district.

(6) The amount deposited in terms of section 22(4) or 22A(3)(a) by any candidate who is unsuccessful at the poll and receives less than ten per cent of the number of votes cast for the successful candidate, shall be forfeited to the State and be paid into the Bophuthatswana Revenue Fund. In all other cases the said deposit shall be refunded to the candidate in respect of whom it was made.

[Ss. 22A and 22B inserted by S.4 of Act 16 of 1984]

23.(1) Subject to the provisions of sections 24 and 25, the person elected to the office of President shall hold that office for a period of seven years commencing on the day upon which he makes and subscribes to the oath of office prescribed in section 27, and he shall retain his membership of the National Assembly in terms of section 39, despite any intervening dissolution of the National Assembly, for as long as he remains President, and shall, for the purposes of section 21(4), be deemed to have been such a member during the period of such dissolution.

[Sub-s. (1) substituted by s.2 of Act 26 of 1981]

(2) The holder of the office of President shall, on the expiration of his period of office be eligible for re-election unless the National Assembly has expressly decided otherwise by resolution.

Tenure of office
of President

Resignation of
President

(3) The President shall at no time absent himself from Bophuthatswana except with the prior consent of the Executive Council.

24. The holder of the office of President may at any time resign from such office by lodging his resignation in writing with the Speaker, and shall so resign —

- (a) if he is or becomes subject to any of the disqualifications for membership of the National Assembly contemplated by section 42, which shall *mutatis mutandis* apply to the President; or
- (b) if he contravenes or fails to comply with the provisions of section 21(5).

[S.24 substituted by s.3 of Act 26 of 1981]

Removal of
President from
office

25.(1) The President shall be removed from his office by the National Assembly on impeachment, on the grounds of any conduct on his part which is unbecoming the high office of President or which brings such office into disrepute, or for treason, bribery or any other high crime;

[Sub-s. (1) substituted by s.4 (a) of Act 26 of 1981]

(2) No impeachment shall be effected by the National Assembly under sub-section (1) —

- (a) unless there has previously been submitted to the Speaker a petition signed by not less than fifty members of the National Assembly praying for the removal of the person holding the office of President and praying further that a committee be appointed to investigate the subject-matter of such petition;
- (b) except after consideration of the report of such committee; and
- (c) unless a majority vote has been obtained in the National Assembly which vote shall include a majority of the members designated in terms of section 39(1)(a) as well as a majority of the members elected in the manner provided for in section 39(1)(b): Provided that the member referred to in section 39(1)(d) shall not be entitled to vote in any proceedings under this section.

[Para. (c) substituted by s.4 (6) of Act 26 of 1981]

(3) No debate shall be permitted in the National Assembly in any proceedings under this section.

Acting President

26.(1) Whenever the President in his judgement is unable by reason of illness or absence or any other good reason to perform the duties of his office, he may appoint a person to serve as Acting President.

(2) Whenever the office of President is vacant or whenever for reason of severe illness or incapacity, the President is unable to make an appointment in terms of subsection (1) the Ministers of State appointed in terms of section 35(1) may appoint a person to serve as Acting President: Provided that any acting appointment made in terms of this section shall be for a period not exceeding three months.

[S 26 substituted by s. 2 of Act 21 of 1979]

27.(1) Before assuming the office of President, the person elected or otherwise required to hold that office shall make and subscribe before the Chief Justice or another judge the following oath of office:

Oath of office of
President and
notice of
assumption of
office

"In the presence of Almighty God, I, A.B., do swear to be faithful to the Republic of Bophuthatswana, to serve its people and to devote myself to their well-being, to uphold the Constitution and observe all other laws of the Republic, and to discharge my duties with all my strength to the best of my knowledge and belief.
So help me God."

(2) The President shall make known by proclamation in the **Gazette** that he has taken the oath and assumed his office.

28. Subject to the provisions of the Declaration of Fundamental Rights and the right of free political expression, any person who commits any act which is calculated to violate the personal dignity or injure the reputation or office of the President, shall be guilty of an offence and liable on conviction to a fine not exceeding ten thousand rand or imprisonment for a period not exceeding ten years.

Protection of
dignity and
reputation of
President

29.(1) There shall be paid to the President out of and as a charge on the Revenue Fund, in addition to any allowances appropriated from time to time by the National Assembly, and apart from any privileges which he may enjoy, a salary determined by the National Assembly from time to time.

Salary of President

(2) The salary and allowances of the President shall not be altered to his disadvantage during his term of office.

30.(1) There shall be paid out of and as a charge on the Revenue Fund —

Pension of
President and his
widow

- (a) to any person who has at any time held the office of President a pension at the rate of three-quarters of the salary payable to such person on his last day of office if he has held that office for not less than five years and at the rate of half of the salary payable to such person on his last day of office if he has held that office for less than

five years: Provided that in the event of a person holding such office being removed from such office in terms of the provisions of section 25, a pension at the rate of one-quarter of the salary payable to such person on his last day of office shall be paid to such person; and

- (b) to the widow of the person referred to in paragraph (a) (unless she entered into a marriage with such person after he vacated his office as President) a pension at the rate of three-quarters of the pension payable or which would have been payable, to such person.
- (2) The pension payable —
 - (a) under paragraph (a) of sub-section (1) shall be payable with effect from the day following the day upon which the person concerned vacated the office of President;
 - (b) under paragraph (b) of sub-section (1) shall be payable with effect from the day following the day on which the beneficiary became a widow.

CHAPTER 4

EXECUTIVE GOVERNMENT

Executive government

31. The executive government of Bophuthatswana is vested in the President who shall consult the Ministers in Executive Council.

Executive Council

32. The Executive Council shall consist of the President and the Ministers of State appointed under section 35(1).

Seal of Bophuthatswana

33.(1) There shall be a Seal of Bophuthatswana showing the Coat of Arms of Bophuthatswana with the circumscription of the words "REPABOLEKI YA BOPHUTHATSWANA".

(2) The Seal shall be in the custody of the President, and shall, save in so far as may be otherwise determined by the President, be used on all public documents on which its use is required by law.

Confirmation of executive acts of President

34.(1) The President shall exercise his powers, authorities and functions vested in him under section 31 in writing under his signature which shall be confirmed by the impress of the Seal of Bophuthatswana.

(2) All decisions of the Executive Council shall be recorded in writing and such decisions shall be taken in accordance

with such rules of procedure as determined by the Executive Council.

35.(1) The President shall establish such Department of State as he may deem necessary for the Government and shall appoint persons not exceeding fifteen in number as Ministers of State to administer such Departments.

State departments and Ministers

[Sub-s. (1) substituted by s. 3 of Act No. 21 of 1979 and by s. 2 of Act No. 31 of 1982]

(2) Persons appointed under sub-section (1) shall be Ministers of State and shall hold office during the pleasure of the President.

(3) A Minister shall not hold office for longer than three months unless he is a member of the National Assembly: Provided that in the event of any dissolution of the National Assembly, whether by effluxion of time or otherwise, every Minister shall continue in office until his successor is appointed.

(4) The remuneration and retirement benefits of a Minister shall be determined by an Act of Parliament.

(5) If any Minister is unable to perform any of the functions of his office, the President may appoint any other member of the Executive Council to act in that Minister's stead either generally or for the performance of any particular function.

(6) A Minister shall before assuming office make and subscribe the following oath before the President or a person designated by the President:

"I, A.B., do hereby swear to be faithful to the Republic of Bophuthatswana, and I undertake before God to honour this oath; to hold my office as a Minister and as a member of the Executive Council with honour and dignity; to uphold the Constitution and all other laws of the Republic; to be a true counsellor.

"I swear further not to divulge any matters brought before the Executive Council which are entrusted to me under secrecy; and to perform the duties of my office conscientiously and to the best of my ability.
So help me God."

36.(1)(a) The President may from time to time appoint persons, who are members of the National Assembly, to hold office during his pleasure as Deputy Ministers of any specified departments or as Deputy Minister of such other description as the President may determine, and to exercise or perform

Deputy Ministers

on behalf of a Minister any of the powers, functions and duties entrusted to such Minister under any law or otherwise which may, subject to the direction of the President, be assigned to him from time to time by the said Minister.

(b) Any person appointed under paragraph (a) shall not be a member of the Executive Council.

(2) The remuneration and retirement benefits of a Deputy Minister shall be determined by an Act of Parliament.

(3) Any person appointed under this section shall before assuming office make and subscribe before the President or a person designated by the President, the following oath:

"I, A.B., do hereby swear to be faithful to the Republic of Bophuthatswana, to uphold its Constitution, to respect and obey its laws, to hold my office as Deputy Minister with honour and dignity, to perform the duties of my office diligently and conscientiously and without regard to my own advantage or benefit, and to keep secret any matters entrusted to me under secrecy.
So help me God."

37. Except as may otherwise be provided in this Constitution or any other law, the appointment and dismissal of persons in the service of Bophuthatswana vests in the President.

37A. Notwithstanding the provisions of this Act or any other law, the President (including for the purposes of this section the acting President) and any Minister of State may delegate any power conferred on him by or in terms of this Act and any other law, including the laws contemplated in section 93(1) of this Act, to such persons, in such manner and to such extent as may be set out in an Act of Parliament adopted for that purpose: Provided that the powers vested in the President in terms of section 20 of this Act and any powers conferred on the President and on any Minister of State by this Act or any other law to issue proclamations and to make regulations, shall not be capable of being delegated.

[S. 37A inserted by s. 1 of Act 42 of 1980]

CHAPTER 5

THE LEGISLATURE

38.(1) The legislative power of Bophuthatswana shall vest in Parliament consisting of the President and the National Assembly.

(2) Parliament shall, subject to the provisions of section

7, have full power to make laws for the peace, order and good government of Bophuthatswana.

(3) Parliament shall exercise its power to make laws by Bills passed by the National Assembly and assented to by the President and every law so assented to shall be styled an Act.

39.(1) The National Assembly shall consist of —

- (a) twenty-four members designated by the regional authorities in Bophuthatswana in the manner provided in subsection (2), before or on a date to be determined by the President by proclamation in the *Gazette*;
- (b) seventy-two members elected in the manner provided in subsection (3);
- (c) twelve members designated by the President, who shall be persons who possess special knowledge, special qualifications or wide experience and who, notwithstanding the provisions of section 42(b) and (c), need not be citizens of Bophuthatswana or registered voters: Provided that such members shall not be entitled to vote on any matter put to the vote in the National Assembly; and
- (d) the person holding the office of President who shall, upon having taken the oath in terms of section 27, be an *ex officio* member of the National Assembly, with all the rights and privileges conferred on members by the provisions of this Constitution, subject to any specified provisions to the contrary contained therein; and

[Sub-s. (1) amended by s. 4 of Act No. 21 of 1979 and by s. 5(a) of Act No. 26 of 1981 and substituted by s. 3(a) of Act No. 31 of 1982 and Para. (c) amended by s. 5(a)(i) of Act No. 16 of 1984]
[Para. (d) substituted by s. 5(a)(ii) of Act No. 16 of 1984]

(1A) Where any member of the National Assembly referred to in subsection (1)(a) or (b) of this section is elected as President in terms of Chapter 3 of this Constitution, he shall, immediately after having taken the oath in terms of section 27, vacate his seat as such a member, whereupon the vacancy so arising shall be filled *mutatis mutandis* in accordance with the provisions of section 46.

[Sub-s. (1A) inserted by s. 5(b) of Act No. 26 of 1981 and substituted by s. 5(b) of Act No. 16 of 1984]

(2) Each regional authority in Bophuthatswana shall designate two of its members as members of the National Assembly.

[Sub-s. (2) substituted by s. 3(b) of Act 31 of 1982]

(3) Six members of the National Assembly shall be elected in respect of each electoral division by the citizens

Power to appoint and dismiss persons

Provision may be made in Act of Parliament for the delegation by President and Ministers of State of certain powers conferred on them by this Act and other laws

Legislative power

entitled to vote in respect of each such electoral division.

[Sub-s. (3) substituted by s. 3(b) of Act 31 of 1982]

(4) The remuneration and retirement benefits of a member of the National Assembly shall be determined by an Act of Parliament.

Persons entitled to
register as voters
and to vote

40.(1) Every person who —

- (a) is a citizen of Bophuthatswana;
- (b) is of the age of twenty-one years or over or, if he is a taxpayer, of the age of eighteen years or over; and
- (c) is not subject to any disqualification mentioned in section 41, shall be entitled to be registered as a voter in an electoral division and, if he is so registered, to vote at an election.

(2) Every person registered as a voter shall, at an election of members of the National Assembly have as many votes as there are members to be elected for the electoral division in which he is registered, but shall not record more than one vote in favour of any one candidate.

Disqualification of
voters

41.(1) No person shall be entitled to be registered as a voter or to the continuance of his registration as a voter or to vote in any election —

- (a) if he has been convicted of any of the offences referred to in Schedule 1 of the Bophuthatswana Aliens and Travellers Control Act, 1979 (Act 22 of 1979) or amendment thereof: Provided that this disqualification shall lapse ten years after such conviction or, if any sentence of imprisonment had been imposed on any person so convicted, ten years after the expiration of such period of imprisonment.

[Para. (a) substituted by s. 2 of Act 54 of 1979]

- (b) if he has been convicted of any offence and sentenced to a period of imprisonment of more than twelve months without the option of a fine or ordered to be detained in a rehabilitation centre under any law and such period has not finally ceased to be operative at least three years before the date of completion of his application to be registered or the date upon which it is decided whether or not his name is to be removed from the voters' list, as the case may be; or
- (c) if he has been convicted of any corrupt or illegal practice under any electoral law and has been

declared incapable of being registered as a voter or of voting at an election during any period and the said period has not expired; or

- (d) if he is subject to an order of court declaring him to be of unsound mind or mentally disordered or defective or is lawfully detained as mentally disordered or defective.

(2) For the purposes of paragraphs (a) and (b) of subsection (1) —

- (a) a person who has been granted a free pardon shall be deemed not to have been convicted of the offence in respect of which he has been pardoned; and
- (b) a period of imprisonment means the full term of a sentence of imprisonment notwithstanding any suspension or remission of the whole or any portion of such sentence.

42. No person shall be capable of being elected or nominated or of sitting or remaining as a member of the National Assembly —

Disqualifications from
being a member of
National Assembly

- (a) unless he is over the age of twenty-five years;
- (b) if he is not a citizen of Bophuthatswana in terms of the Citizenship Act, 1978 (Act 19 of 1978), subject, however, to the provisions of section 39(1)(c);
- (c) unless he is, in terms of section 41, entitled to be registered as a voter in any electoral division in Bophuthatswana and is in fact so registered;
- (d) If he has been convicted —
 - (i) of any offence contemplated by section 41(1)(a) which in terms of the section would have disqualified him from registration as a voter;
 - (ii) of the offence of defeating or obstructing the course of justice, or any offence under any law, relating to the illicit dealing in or conveyance of any dependence producing drugs, or any other offence, whether under common law or statute, of which corruption, dishonesty or *falsitas* constitutes an element;
 - (iii) on account of any conspiracy, incitement or attempt on his part to commit any of the offences contemplated by subparagraph (i) or (ii); or

- (iv) of any offence for which he has been sentenced to imprisonment without the option of a fine for a period of not less than twelve months,

- (e) If he is an unrehabilitated insolvent.

[Para. (e) added by s. 1 of Act No. 55 of 1980]

unless he has received a grant of amnesty or a free pardon, or unless the imprisonment imposed for any such offence has expired, at least ten years before the date of his election or nomination.

[S. 42 substituted by s. 1 of Act No. 52 of 1980]

[S. 42A inserted by s. 5 of Act No. 21 of 1979 and repealed by s. 2 of Act No. 55 of 1980]

Oath of members
of National
Assembly

43. Every member of the National Assembly shall, before he takes his seat make and subscribe before the Chief Justice or a judge designated by him, or in the case of a member filling a casual vacancy, before the Speaker, the following oath:

"I, A.B., do swear to respect and uphold the Constitution of Bophuthatswana and all other applicable laws and I solemnly promise to perform my duties as a member of the National Assembly with dignity and to the best of my ability.
So help me God."

Life of
National
Assembly

44.(1) Subject to the provisions of section 23(1), every National Assembly shall continue for five years with effect from the date of the first sitting day of the first session of the National Assembly held after its constitution, which session shall commence within three months of such constitution: Provided that the President may by proclamation in the **Gazette** dissolve the National Assembly before the expiration of the said period of five years.

[Sub-s. (1) substituted by s. 6 of Act 26 of 1981]

- (2)(a) Any proclamation under sub-section (1) shall also provide for the next designation and election of members of the National Assembly in terms of section 39;

- (b) the designation and election of members of the National Assembly after the expiry of its term shall take place upon such date or dates as fixed by the President by proclamation in the **Gazette**.

44A.(1) Whenever criminal proceedings on account of any offence referred to in section 42(d) of this Act are pending against a member of the National Assembly such a member shall *ipso facto* be suspended from his office until such time as —

Suspension of members
of National Assembly
against whom certain
criminal proceedings
are pending

- (a) the seat of such a member becomes vacant in terms of section 45(d) by reason of such member having been convicted of such an offence; or

- (b) such proceedings have been abandoned or the charges against such member have been withdrawn or such member has been found not guilty of such an offence, and a certificate to that effect by the clerk or registrar of the court in question is tendered to the Secretary of the National Assembly: Provided that —

- (i) where such a member has been found not guilty, no such certificate shall be given by the clerk or registrar of the court in question —

- (aa) where the State has noted an appeal in accordance with the provisions of any law applicable to the noting of appeals by the State; or

- (bb) before the expiration of the period within which the State is, in terms of the provisions of any law, required to note an appeal, and no such appeal is noted by the State;

- (ii) where a court of appeal reverses a verdict of guilty or confirms a verdict of not guilty on appeal, a certificate as to the finding of such court of appeal shall be given by the registrar of such court of appeal at the request of such member, subject to the provisions of paragraph (i) of this proviso (where applicable).

- (2) No member of the National Assembly who has been suspended from this office in terms of subsection (1) shall —

- (a) during the period of his suspension be entitled to

sit as member of or take part in any of the proceedings of the National Assembly; and

- (b) in respect of and during the period of such suspension, be entitled to any emoluments which are payable to members of the National Assembly under any law, subject to the provisions of subsection (3).

(3) When the suspension of a member of the National Assembly has been terminated in terms of subsection (1)(b), such a member shall once again have all the rights and privileges of a member as if such suspension had not taken place and he shall, in respect of the period of suspension, be entitled to and paid all such emoluments, contemplated in subsection (2)(b), which would have been paid to him if he had not been so suspended.

[S. 44A inserted by s. 1 of Act 12 of 1981]

45. The seat of a member of the National Assembly shall become vacant —

- (a) upon his death;
- (b) when the Secretary of the National Assembly receives a notice of resignation signed by such member;
- (c) if he fails for a whole ordinary session of the National Assembly to attend any sitting of the National Assembly without its special leave, unless he has submitted to the Speaker within seven days after the commencement of its next ensuing session the reasons for his absence for consideration by the National Assembly or such committee thereof as it may appoint for that purpose, and such absence has been approved by the National Assembly: Provided that pending such approval such member shall be deemed not to have been a member during the period as from the closing day of the session not attended by him up to the date of such approval; or
- (d) in the case where such member is or becomes subject to any of the disqualifications mentioned in section 42, and the Secretary of the National Assembly has received or acquired notice or knowledge thereof: Provided that in the case where such disqualification relates to the conviction of such member of any offence contemplated by section 42(d) and such member has noted an appeal against such conviction or takes it on review within twenty-one days as from such

conviction, or if it is subject to review in the ordinary course in terms of the Criminal Procedure Act, 1977 (Act 51 of 1977), the seat of such member shall not become vacant unless and until such time as such appeal or review has been dealt with and the conviction of such member has been confirmed on appeal or review or the court of appeal or review has found such member guilty of any other offence mentioned in section 42(d).

[S. 45 amended by s. 3 of Act 54 of 1979 and substituted by s. 3 of Act 55 of 1980]

46.(1) If the seat of a designated member of the National Assembly becomes vacant in terms of section 45(a), (b) or (d), such vacancy shall be filled in the manner provided for in section 39(1)(a) or (c), within three months after the occurrence of such vacancy, unless the term of the National Assembly has expired before such vacancy can be filled in accordance with the provisions of this subsection.

(2) If the seat of an elected member of the National Assembly becomes vacant in terms of section 45(a), (b) or (d), such vacancy shall be filled by the designation of a member by the regional authority in whose area the electoral division in question is situated, within three months after the occurrence of such vacancy, unless the term of the National Assembly has expired before such vacancy can be filled in accordance with the provisions of this subsection.

(3) If the seat of any member of the National Assembly becomes vacant in terms of section 45(c), such vacancy shall be filled in the manner provided for in section 39 within three months after the commencement of the next ensuing session of the National Assembly unless the term of the National Assembly has expired before such lastmentioned session.

(4) The provisions of section 42 shall *mutatis mutandis* apply in respect of any person designated or elected to fill any vacancy in the National Assembly in terms of this section.

(5) Subject to the provisions of this Constitution, any person designated or elected in terms of this section to fill a vacancy in the National Assembly, shall hold office for the unexpired portion of the term of office of his predecessor.

[S. 46 substituted by s. 4 of Act 55 of 1980]

47.(1) Every session of the National Assembly shall be held at the seat of the Government.

(2) There shall be a session of National Assembly at least once every year, which shall commence on a date determined by the President: Provided that the period between the

Filling of vacancies

Sessions of
National Assembly

Vacancies in
National
Assembly

last sitting day of the National Assembly in one session and its first sitting day in the next session shall not exceed fifteen months.

(3) A special session of the National Assembly may at any time be called by the President and at such session only such business as the President may approve shall be considered.

(4) The Secretary of the National Assembly shall in writing, not less than forty-two days before an ordinary and not less than seven days before a special session of the National Assembly, inform the members of the date and time fixed for, and the business to be considered at, such session.

Speaker and
Deputy Speaker

48.(1) The National Assembly shall, at its first sitting and before proceeding with the dispatch of any other business, elect by ballot from amongst its members a Speaker and a Deputy Speaker.

(2) All sittings of the National Assembly shall be presided over by the Speaker: Provided that at the first sitting of the National Assembly or when the office of the Speaker is vacant the Secretary of the National Assembly or, in his absence, a person designated by the President shall preside until a Speaker is elected.

(3) The Speaker shall vacate his office —

- (a) if he ceases to be a member of the National Assembly; or
- (b) if he resigns from such office; or
- (c) if he is removed from office by a resolution of the National Assembly.

Procedure of the
National Assembly

49.(1) All questions in the National Assembly shall, subject to the provisions of sub-section (3), be determined by a majority of votes of members present, other than the Speaker or, in his absence, the Deputy Speaker who shall have and exercise a casting vote in the case of an equality of votes.

(2) The presence of at least forty-eight members, eligible to vote, of the National Assembly shall be necessary to constitute a meeting of the National Assembly for the exercise of its powers.

(3) On the petition to the Speaker of at least thirty members of the National Assembly, a question in the National Assembly may be determined by the members designated under section 39(1)(a) and members elected under section (39)(1)(b) separately, in which case such a question

shall be determined only if a majority is reached in both groups: Provided that —

- (a) an Appropriation Bill in terms of section 51(1) shall not be deliberated and voted on separately;
- (b) in the case of any other Bill, when a majority vote cannot be reached in both groups after a division has been requested, the National Assembly shall not proceed with that Bill during the same session; and
- (c) when such Bill is introduced in the same form during the next session of the National Assembly, no such division as regards the vote on such a Bill shall take place.

(4) The National Assembly may from time to time adopt standing rules and orders not inconsistent with this Constitution, for the regulation and conduct of its proceedings and the dispatch of business, for the passing, entitling and numbering of laws and for the presentation of Bills to the President in terms of section 52.

(5) Subject to the rules and orders referred to in sub-section (4) —

- (a) the proceedings of the National Assembly shall be open to the public; and
- (b) there shall be freedom of speech and debate in and before the National Assembly and any committee thereof for every member of the National Assembly and such freedom shall not be liable to be impeached or questioned in any court or place outside the National Assembly.

(6) No civil or criminal proceedings shall be instituted against any member of the National Assembly, nor shall such member be liable to arrest or imprisonment or for damages, by reason of any matter or thing which he may bring by petition, bill, resolution motion or otherwise or may have said in or before the National Assembly or any committee thereof.

(7) No person shall be liable in damages or otherwise for any act done within the legal powers of the National Assembly and under its warrant or other authority.

(8) No member or servant of the National Assembly shall, while in attendance on the National Assembly, be obliged to appear as a party or as witness in any civil proceedings in any court that holds its sitting elsewhere than at the seat of the National Assembly, and a certificate by the Speaker stating that such member or servant is in attendance on the

Penalty for sitting
and voting as
member of
National Assembly
when disqualified

National Assembly shall be sufficient proof of such attendance.

50. Any person who is by law incapable of sitting as a member of the National Assembly and who while so incapable and knowing or having reasonable ground for knowing that he is so incapable, sits or votes as a member of the National Assembly shall be liable to a penalty of twenty rand for each day on which he so sits or votes and such penalty may be recovered on behalf of Bophuthatswana by action in any competent court.

Bills appropriating
public funds or
imposing taxation

51.(1) Any Bill which appropriates revenue or moneys for the ordinary actual services of the Government shall deal only with such appropriation and shall be known as an Appropriation Bill.

(2) The National Assembly shall not —

- (a) consider or pass any vote, resolution, address or Bill for the appropriation of any part of the public revenue or of any tax or impost for any purpose whatsoever; or
- (b) proceed with any Bill for the imposition of taxation or the alteration of taxation otherwise than by reduction,

except upon the recommendation of the President conveyed by message during the session in which such vote, resolution, address or Bill is proposed.

Assent to Bills

52.(1) When a Bill is presented to the President for his assent he shall declare according to his discretion that he assents thereto or that he withholds assent.

(2) When the President withholds his assent the Bill shall be returned to the National Assembly; Provided that the President may return to the National Assembly any Bill presented to him under sub-section (1) and may at the same time transmit any amendment which he may recommend and the National Assembly may deal with the recommendations.

(3) If after such recommendation two-thirds of the members present in the National Assembly shall agree to pass the Bill, it shall become a law notwithstanding the provisions of sub-section (1) and in which case the signature of the Speaker shall replace the assent of the President.

Signature and
enrolment of
Acts

53.(1) A Bill adopted by the National Assembly shall, subject to the provisions of section 52(3), become a law upon having been assented to, and a fair copy thereof, in the Tswana, English or Afrikaans language, having been signed, by the President: Provided that, where the Bill adopted

by the National Assembly was made available to and considered by the National Assembly in only one or two of the said languages or in one of the two languages (as the case may be) in which such Bill was so made available and considered.

(2) The Secretary of the National Assembly shall cause three fair copies of every law, one being in Tswana, one in English and one in the Afrikaans language, to be enrolled on record in the office of the Registrar of the Supreme Court before or on the date of publication of such law in terms of section 54: Provided that, where the law in question was, as a Bill, considered and adopted by the National Assembly in only one or two of the said languages —

- (a) Such law may be so enrolled in that one language or those two languages (as the case may be), before or on such date; and
- (b) such law shall be so enrolled in the other language or languages (as the case may be), within six months as from the date upon which the President assented to such Bill.

(3) The copies of any law enrolled in terms of subsection (2) shall be conclusive evidence as to the provisions of such law, and in the case of conflict between any of the copies so enrolled, the copy signed by the President shall prevail: Provided that, in the case of such conflict as regards this Constitution, the copy signed by the Chairman of the Legislative Assembly shall prevail.

[S. 53 substituted by s. 2 of Act 52 of 1980 and substituted by s. 1 of Act 3 of 1983]

54.(1) The Secretary of the National Assembly shall cause every law to be published in the **Gazette**.

Promulgation and
commencement of
law

(1A) Any law assented to by the President in terms of section 53(1) may, for the purposes of publication in terms of subsection (1) of this section and section 13(1) of the Interpretation Act, 1957 (Act 33 of 1957) where —

- (a) such law was, as a Bill, considered and adopted by the National Assembly in only two of the official languages of Bophuthatswana, be published in such two languages; or
- (b) such law was, as a Bill, considered and adopted by the National Assembly in only one of the official languages of Bophuthatswana, be published in that one language:

Provided that such law shall be published in the remaining official language or languages (as the case may be), within six months as from the date upon which it was published

in accordance with the provisions of paragraph (a) or (b), as the case may be.

(1B) The provisions of subsection (1A) shall *mutatis mutandis* apply in respect of the publication of any proclamation, regulation, by-law or notice issued, made or given by the President, any Minister of State or any other authorised person in terms of any law in force in Bophuthatswana.

[Sub-ss. (1A) and (1B) inserted by s. 2 of Act 3 of 1983]

(2) A law shall come into operation on the date of its publication in the **Gazette** unless the law itself provides that it shall come into operation on another date or on a date to be fixed by notice thereunder.

Matters of
privilege

55.(1) Anything said by any member of the National Assembly in or before the National Assembly or any committee thereof, whether as such a member or as witness, shall be deemed to be a matter of privilege.

(2) If, in any civil or criminal proceedings which have been instituted for or on account or in respect of any matter of privilege, there is produced to the court by defendant or the Secretary of the National Assembly stating that the matter in question is one which concerns the privilege of the National Assembly, the court shall forthwith stay the proceedings which shall thereupon be deemed to have been finally determined.

CHAPTER 6

CHIEFS, HEADMEN AND REGIONAL BOUNDARIES

Chiefs to retain
personal status

56. (1) The chiefs in Bophuthatswana shall retain their status.

(2) Chiefs and headmen shall exercise their authority in terms of an Act of Parliament.

Designation of
chiefs

57.(1) The designation of chiefs, acting chiefs, headmen, acting headmen and independent headmen shall, subject to the provisions of sub-section (2) vest in the President.

(2) The creation of any new chieftainship, or sub-chieftainship shall not be confirmed by the President except after consideration of a recommendation of the Executive Council.

Regional
boundaries

58. Parliament shall not alter the boundaries of any regional authority area for any purpose, other than the inclusion therein, of land added to Bophuthatswana, except after consultation with every regional authority affected thereby.

CHAPTER 7

THE JUDICATURE

59.(1) There is hereby established the Supreme Court of Bophuthatswana in which shall be vested the judicial power of Bophuthatswana and which shall comprise —

Establishment and
Constitution of
Supreme Court

- (a) the Appellate Division, consisting of the Chief Justice and such number of judges of appeal as may be required by law; and
- (b) the General Division, consisting of the Judge-President and such number of other judges as the Minister of Law and Order may from time to time determine, and who shall be duly appointed by the President in accordance with the provisions of section 61: Provided that the preceding provisions of this subsection shall not be construed so as to preclude the person appointed as Chief Justice from also being appointed as Judge-President.

[Sub-s. (1) substituted by s. 4 of Act 31 of 1982]

(2) The Supreme Court shall be a court of record and shall have for its use a distinctive seal in the design prescribed in Schedule 4, which shall be in the custody of the Registrar of the Court.

60. Subject to the provisions of this Constitution and of any other law (including the common law) the Supreme Court shall —

Jurisdiction of
Supreme Court

- (a) have jurisdiction over all persons residing or being in Bophuthatswana; and
- (b) have power —
 - (i) to hear and determine all civil and criminal matters, proceedings or causes arising within Bophuthatswana;
 - (ii) to hear and determine appeals from all lower courts; and
 - (iii) to review the proceedings of all lower courts.

61.(1) Subject to the provisions of sub-section (2) the President shall from time to time as occasion may require appoint a fit and proper person as Chief Justice or as judge of the Supreme Court.

Appointments and
remuneration of
judges

- (2) No person shall be appointed under sub-section (1) —
 - (a) to the office of Chief Justice, unless he holds or has at any time held office as a judge of the

Supreme Court of Bophuthatswana, or has held office as a judge of a Supreme Court or High Court in such country or territory as the National Assembly may determine by resolution; or; and

[Para. (a) substituted by s. 6(a) of Act 16 of 1984]

(b) to any office of judge, unless —

(i) he has practised as an advocate in the Supreme Court or in any superior court referred to in paragraph (a) for a period of not less than ten years; or

(ii) he has previously held office as a judge in any such court; or

(iii) he is professor of law who, immediately prior to the date of his appointment, has had continuous service as such for a period of at least ten years at the University of Bophuthatswana or any university in such other country or territory as the National Assembly may determine by resolution, or if, immediately prior to such date, he has had continuous service as such at any two or more of the universities hereinbefore contemplated, for a total period of at least ten years; or

[Sub-para. (iii) added by s. 5(a) of Act 31 of 1982 and substituted by s. 6(b) of Act 16 of 1984]

(c) to the office of Chief Justice or judge, if he is of or above the age of seventy years.

(3) If at any time the office of any judge of the Supreme Court is vacant or if any such judge is for any reason unable to perform his duties, the President may appoint, to act temporarily in the place of such judge, any person who qualifies for appointment under sub-sections (1) and (2), including any person who would so qualify but for his age: Provided that —

(a) the Minister of Law and Order may appoint any such person to act as a judge for a period not exceeding one month; and

(b) no person other than a person who complies with the provisions of sub-section (2)(a) shall be appointed to act as Chief Justice; and

[Para. (b) substituted by s. 5(b) of Act 31 of 1982]

(c) any appointment made under this subsection shall be deemed to extend also to any such period as may be required as to enable any person so ap-

pointed to dispose of any proceedings heard by him as a judge during the period of his appointment and which —

(i) were still pending on the expiration of his appointment; or

(ii) having been disposed of by him prior to the expiration of his appointment, were reopened after such expiration.

[Para. (c) added by s. 5(b) of Act 31 of 1982]

(4) (a) The remuneration and other conditions of service including retirement benefits of judges of the Supreme Court shall be determined by the National Assembly.

(b) the remuneration of a judge shall not at any time be reduced while he continues in office.

(5) (a) Every judge of the Supreme Court shall, before commencing to exercise the functions and duties of his office make and subscribe an oath substantially in the form prescribed in Schedule 5.

(b) Such oath shall be taken before a judge of the Supreme Court or, if a judge is not available, before a person designated by the President.

62. Unless authorised thereto by the President a judge of the Supreme Court shall not accept or hold any other office of profit or receive in respect of any service rendered by him any remuneration other than the remuneration referred to in section 61(4).

Judge may not hold other office of profit without permission

63. The Chief Justice or other judge of the Supreme Court shall not be removed from office except by the President but no judge shall be so removed except upon an address from the National Assembly praying for such removal on the grounds of misbehaviour or incapacity.

Removal of judge from office

64. The Chief Justice may make rules regulating the conduct of proceedings in the Supreme Court and prescribing any matter whatsoever which it is necessary to prescribe in order to ensure the proper despatch and conduct of the business of the court, including rules prescribing court fees, the fees payable for the service or execution of process and the fees chargeable by advocates, attorneys and notaries as well as rules relating to the taxation of Bills of costs and the recovery of costs and such rules shall be made known by notice in the **Gazette**.

Rules of Court

65. The Chief Justice may by notice in the **Gazette** —

(a) divide Bophuthatswana into circuit districts and

Circuit courts

from time to time in like manner alter the boundaries of any circuit district; and

- (b) determine the times when and the places where the Supreme Court shall sit in such circuit districts for the hearing of criminal cases.

Administration of
justice

66.(1) The administrative aspects of the functioning of the courts throughout Bophuthatswana shall be under the control of the Minister of Law and Order.

(2) There shall be appointed, by the Minister of Law and Order, subject to the provisions of the laws governing the public service and to the provisions of section 90(1), an attorney-general, who —

- (a) shall have authority to prosecute in the name of the State any person charged with an offence before any court;
- (b) may perform any function which is necessary for or incidental to the exercise of such authority; and
- (c) shall have such other powers and competence as may be conferred upon him by or under any other law.

[Sub-s. (2) amended by s. 6 of Act 21 of 1979]

[Sub-s. (2) substituted by s. 7 of Act 16 of 1984]

(3) The attorney-general shall, in the exercise of his powers, authorities and functions be under the direction and control of the Minister of Law and Order who may after consultation with the Chief Justice set aside or vary any decision of the attorney-general and himself either generally or with reference to a particular matter, exercise or perform any power, authority or function of the attorney-general.

(4) The Minister of Law and Order may, subject to the laws governing the public service, appoint one or more deputy attorneys-general who, under the direction and control of the attorney-general, may do anything that the attorney-general may lawfully do.

(5) Whenever for any reason the attorney-general is absent or unable to carry out the functions of his office or whenever the office of attorney-general becomes vacant, the Minister of Law and Order may appoint any deputy attorney-general, or, if none is available, any other qualified officer of the public service to act temporarily in the place of the attorney-general.

[Sub-s. (5) amended by s. 4 of Act 54 of 1979]

Recognition and
application of
customary law

67.(1) In all proceedings involving questions of tribal customs followed by persons in Bophuthatswana it shall be

in the discretion of the court to decide such questions in accordance with the tribal law applying to such customs except in so far as the court may find that such law has been repealed or modified or is contrary to public policy or opposed to the principles of natural justice: Provided that no such finding shall be made by any court in respect of the custom providing for the payment of **bogadi**.

(2) The court shall not, in the absence of any agreement between the parties regarding the system of law to be applied in any such proceedings, apply any system of customary law other than that —

- (a) which is observed at the place in Bophuthatswana where the defendant or respondent resides, carries on business or is employed; or
- (b) if more than one system of customary law is in operation at that place, which is observed by the tribe to which the defendant or respondent belongs.

(3) For the purposes of subsection (1) a court including the Supreme Court in applications, trials and appeals may summon to its assistance in an advisory capacity such assessors as the court may deem necessary and the opinions of any such assessors shall be recorded and shall form part of the record of the proceedings.

CHAPTER 8

FINANCE

68. All revenues and other moneys received from any source whatsoever for the purpose of the administration of Bophuthatswana shall vest in the President.

Revenues vested in
President

69.(1) Into the Bophuthatswana Revenue Fund there shall be paid all the revenues raised or received by the President other than any moneys that are payable by or under any law into a fund established for a specific purpose.

Bophuthatswana
Revenue Fund

(2) Subject to the provisions of section 70, no moneys shall be withdrawn from the Revenue Fund except under appropriation made by a law of Parliament.

70.(1) The President may by special warrant under his hand authorise the issue of money from the Revenue Fund —

President may
issue special
warrant

- (a) to defray unforeseen expenditure of a special character which is not provided for in an appropriation law and which cannot without serious injury to the public interest be postponed until adequate provision can be made therefore by Parliament; or

- (b) to meet an excess under any head of expenditure in any appropriation law.
- (2) The total sum which the President may authorise under sub-section (1) shall not at any time exceed five per cent of the annual appropriation and the relative expenditure shall be submitted to the National Assembly for appropriation at its next ensuing session.
- Requirements for issue out of Revenue Fund 71. No issue shall be made out of the Revenue Fund except in pursuance of a requisition from an accounting officer with a warrant signed by the President and no such warrant shall have effect unless it is countersigned by the Auditor-General or a person acting under his general or special authority.
- Annual estimates 72. The annual estimates of revenue and expenditure for Bophuthatswana shall be prepared by the Executive Council and shall thereafter be submitted by the Minister of Finance to the National Assembly for appropriation.
- Appointment of Auditor-General 73. The President shall, subject to the provisions of law appoint an Auditor-General whose conditions of service shall be prescribed by the National Assembly to whom he shall be responsible for the proper exercise and performance of his duties.

CHAPTER 9

GENERAL

- Public Service Commission 74. There shall be a Public Service Commission which shall consist of a Chairman and not more than four other members appointed by the President in a full-time or part-time capacity..
- [S. 74 substituted by s. 7 of Act 21 of 1979]*
- Liability of the State in respect of acts of its servant 75.(1) Subject to the provisions of sub-section (2) any claim against the State, which would if that claim had arisen against a person be the ground of an action in any competent court, shall be recognisable by such court, whether such claim arises out of any contract lawfully entered into on behalf of the State or out of any wrong committed by any servant and within the scope of his employment as such servant.
- (2) No proceedings of any nature shall be brought under sub-section (1) if a period of twelve months has elapsed from the date on which the plaintiff became aware of the cause of action and unless notice in writing of the intention to bring such proceedings and of the cause thereof has been given to every defendant at least one month before the commencement of the proceedings.
- (3) In any proceedings instituted by virtue of the provi-

sions of sub-section (1) the Minister of the department concerned may be cited as nominal defendant or respondent.

(4) No execution, attachment, or like process shall be issued against the nominal defendant or respondent in any proceedings under this section or against the property of the State but the amount required to satisfy any judgment or order against such nominal defendant or respondent shall be paid from public funds.

(5) Nothing in this section contained shall affect any provision of any other law which —

- (a) limits the liability of the State or any department or other institution thereof in respect of any act or omission of its servants;
- (b) prescribes a different period within which a claim shall be made in respect of any such liability; or
- (c) imposes conditions on the institution of any proceedings.

76. Any person other than the President, the Acting President or a member of the Executive Council who is required by any provision of this Constitution to make and subscribe an oath of office or any other oath may in lieu thereof make and subscribe a corresponding solemn affirmation.

Affirmation instead of oath

77.(1) There shall be guilty of an offence any person who, without authority in writing signed on behalf of the President, uses for the promotion of his trade, business, profession or occupation or in connection with any mark or description applied by him to goods made, produced or sold by him —

Protection of emblems

- (a) the Coat of Arms of Bophuthatswana or anything so closely resembling the Coat of Arms as to be likely to deceive;
- (b) the style, title, name, portrait or effigy of the President or a Minister of State of Bophuthatswana; or
- (c) a reproduction of the National Flag of Bophuthatswana, of any official building of Bophuthatswana or of any official residence of the President, a Minister of State or the Chief Justice.

(2) Any person who is convicted of a contravention of sub-section (1) shall be liable to a fine not exceeding five hundred rand and the court convicting such person may in addition order the confiscation to the State of or any part of any goods in respect of which the offence was committed.

78. In this Constitution, unless the context otherwise indicates —

“Auditor-General” means the Auditor-General appointed in terms of section 73;

“Bophuthatswana” means the Republic of Bophuthatswana;

“chief” means a person designated, appointed or recognised as a chief and includes an acting chief;

“Chief Justice” means the Chief Justice of the Supreme Court appointed or deemed to have been appointed under section 61(1) and includes an acting Chief Justice;

“district of Bophuthatswana” means a district referred to in Schedule 3;

“election” means any election of a member or members of the National Assembly;

“electoral division” or “division” means an electoral division referred to in section 83;

“Executive Council” means the Executive Council constituted by section 32;

“Gazette” means the Government Gazette of Bophuthatswana;

“Government” means the Government of Bophuthatswana;

“headman” means a person designated or appointed as headman;

“judge” means any judge of the Supreme Court appointed or deemed to have been appointed under section 61(1) and includes an acting judge;

“lower court” means any court (other than a chief’s court) which is required to keep a record of its proceedings and includes a magistrate or other officer holding a preparatory examination into an alleged offence;

“National Assembly” or “Assembly” means the National Assembly constituted under section 39(1);

“President” means the person holding office as President under Chapter 3 and includes an Acting President;

“regional authority” means any regional authority in Bophuthatswana constituted in accordance with law;

“Revenue Fund” means the Bophuthatswana Revenue Fund referred to in sections 69 and 72;

“Speaker” means the person elected as Speaker under section 48 and includes the Deputy Speaker;

“Supreme Court” means the Supreme Court of Bophuthatswana established or deemed to have been established by section 59(1);

“tribal authority” means any tribal authority or com-

munity authority in Bophuthatswana constituted in accordance with law.

CHAPTER 10

REPEAL AND AMENDMENT OF CONSTITUTION

79.(1) Parliament may repeal or amend any provision of the first ten Chapters of this Constitution with a two-thirds majority of its members present in the National Assembly: Provided that if the procedure in section 49(3) is petitioned for such a repeal or amendment, a two-thirds majority vote shall be obtained in both groups.

(2) The provisions of Chapter 11 of this Constitution may be repealed or amended in the manner provided in section 49(1).

(3) Except for Schedules 1, 2, 3, 4 and 5, which shall be repealed or amended in the manner provided for in subsection (1), the President may amend the other schedules to this Constitution by proclamation in the **Gazette**.

Repeal and
amendment of
constitution

CHAPTER 11

TRANSITIONAL AND SAVINGS PROVISIONS

80.(1) Citizens of Bophuthatswana shall be —

- (a) all Batswana as defined by an Act of Parliament;
- (b) any other person legally domiciled in Bophuthatswana at independence for a period of five years or more who applies and is accepted as a citizen and [Paragraph (b) substituted by s.1 of Act 1 of 1978]
- (c) any other people who apply and are accepted as citizens.

Citizenship

(2) Any Bophuthatswana citizen shall have the right to renounce his citizenship of Bophuthatswana.

81. Any department of State in existence immediately prior to the commencement of this Constitution, shall be deemed to have been established under section 35(1) and any Minister appointed under that section to administer such department and holding office immediately prior to such commencement, shall be deemed to have been appointed under that section to administer that department, provided that such Minister shall make and subscribe the oath prescribed in section 35(6).

State departments
and Ministers

82. Any reference in any law other than this Constitution to a Deputy Minister shall be construed as including a

Deputy Ministers

reference to a Deputy Minister appointed under section 36(1), and any such reference to a Minister shall be construed as including a reference to a Deputy Minister acting in pursuance of an assignment under section 36(1)(a) by the Minister for whom he acts.

Electoral Divisions

83. The districts of Bophuthatswana shall be electoral divisions for the election of members to the National Assembly in terms of the provisions of section 39(3), provided that —

(a) the areas of —

- (i) the Bafokeng-Ba-Ga-Motlala Tribal Authority as made known by Government Notice 107, dated 23 January, 1959;
- (ii) the Molete Bakolobeng Tribal Authority as made known by Government Notice 610, dated 8 September, 1961; and
- (iii) the Shole-Batloung Tribal Authority as made known by Government Notice 1408, dated 31 August 1962;

shall be deemed to be included in the District of Ditsobotla; and

(b) the area of the Bakwena-Ba-Latshane Tribal Authority as made known by Government Notice 946, dated 4 July, 1958 shall be deemed to be included in the District of Mankwe.

Procedure in the National Assembly

84.(1) Until the National Assembly makes rules and orders under section 49(4) the rules and orders which applied in the Bophuthatswana Legislative Assembly immediately prior to the commencement of this Constitution shall continue to apply *mutatis mutandis* to the proceedings in the National Assembly except to the extent to which such rules and orders are inconsistent with the provisions of this Constitution.

(2) Any reference in any law to the Legislative Assembly, or to Parliament or any House of Parliament or the House of Assembly or a member thereof, shall be construed as a reference to Parliament or the National Assembly established by this Constitution or to a member of the said National Assembly.

(3) Where any matter, which has, during the session of the Bophuthatswana Legislative Assembly immediately preceding the commencement of this Constitution, been brought before the said Bophuthatswana Legislative Assembly, has not before such commencement been disposed of, that matter may be further dealt with or considered by the National Assembly established by this Constitution, and any action taken in connection with such matter by the Bophuthatswana Legislative Assembly, shall be deemed to

have been taken by Parliament or the National Assembly, as the case may be, established by this Constitution.

(4) Any Bill passed prior to the commencement of this Constitution by the Bophuthatswana Legislative Assembly which has been assented to by the State President of the Republic of South Africa but has not been promulgated before such commencement, may be promulgated thereafter and shall thereupon have full force and effect as an Act of Parliament in all respects as if this Constitution had not been passed.

(5) If any Bill brought before the Bophuthatswana Legislative Assembly prior to the commencement of this Constitution, has not been passed by that Legislative Assembly or if the State President of the Republic of South Africa has not assented to any Bill so passed, that Bill may be further dealt with or considered by Parliament or the National Assembly, as the case may be, established by this Constitution or be dealt with in terms of section 52.

85. Notwithstanding anything in this Constitution contained all duties, powers, authorities and functions lawfully exercised by chiefs and headmen immediately prior to the commencement of this Constitution shall remain in force until varied or withdrawn by the competent authority.

Duties, powers, authorities and function of chiefs and headman to remain

86. Notwithstanding anything in this Constitution contained all powers, authorities and functions lawfully exercised by tribal community and regional authorities in Bophuthatswana immediately prior to the commencement of this Constitution shall remain in force until varied or withdrawn by Parliament.

Powers, authorities and functions of tribal, community and regional authorities to remain

87. All Government land which at the commencement of this Constitution or at any time thereafter is reserved for occupation by the tribes or communities residing thereon shall —

Vesting and use of certain land

- (a) vest in the President subject to any existing charge or obligation on or over such land or otherwise lawfully affecting the same;
- (b) continue to be used and administered for the settlement, support, benefit and material and moral welfare of such tribes or communities; and
- (c) not be alienated or in any way diverted from the purpose for which such land is reserved except under the authority of an Act of Parliament generally or specifically adopted in this regard: Provided that notwithstanding the provisions of

such an Act any such alienation or diversion shall only be effected in consultation with the tribe or community concerned.

[Para. (c) substituted by s. 2 of Act 42 of 1980]

Continuation of
local authorities

88. Notwithstanding anything in this Constitution contained every local authority in existence in any district of Bophuthatswana at the commencement of this Constitution, including every regional, tribal and community authority, shall continue in existence and in operation until disestablishment or altered in accordance with law.

High Court of
Bophuthatswana,
appointment of
judges, rules of
court and
appointment of
attorney-general

89.(1) Notwithstanding the provisions of section 98(1), the High Court established under section 34 of the Bantu Homelands Constitution Act, 1971 (Act 21 of 1971), shall as constituted immediately prior to the commencement of this Constitution, be deemed to be the Supreme Court and to have been established and constituted as such by section 59(1).

(2) Any person holding office as Chief Justice or judge of the High Court referred to in sub-section (1) immediately prior to the commencement of this Constitution shall be deemed to have been appointed as Chief Justice or judge of the Supreme Court, as the case may be, in terms of section 61(1), and if he has already taken an oath of office in such court, it shall not be necessary for him before discharging any function under this Constitution, to make or subscribe the oath referred to in section 61(5).

(3) The rules which immediately prior to the commencement of this Constitution applied in respect of the High Court referred to in sub-section (1) shall, notwithstanding the provisions of section 98(1), apply *mutatis mutandis* in respect of the Supreme Court and shall be deemed to have been duly made, approved and published in terms of section 64.

(4) Any person who immediately prior to the commencement of this Constitution holds the office of attorney-general or deputy attorney-general in respect of the area of jurisdiction of the High Court referred to in sub-section (1), shall be deemed to have been appointed as attorney-general or deputy attorney-general, as the case may be, under section 66.

Advocates and
attorneys

90.(1) No person shall practice the profession of an advocate, an attorney, a notary or a conveyancer before or of the Supreme Court of Bophuthatswana unless he has been duly admitted or enrolled as such in accordance with the laws of force in Bophuthatswana governing the admission and practice of advocates, attorneys, notaries or conveyancers, as the case may be.

[Sub-s. (1) substituted by s. 8 of Act 16 of 1984]

(2) All advocates and attorneys entitled immediately prior to the commencement of this Constitution to practise in the High Court referred to in section 89(1) shall be entitled, subject to the provisions of the aforesaid laws, to practise in the Supreme Court.

91. Notwithstanding anything contained in section 98(1) but subject to the provisions of this Constitution —

Provisions relating
to existing courts

- (a) every court in existence in a district of Bophuthatswana immediately prior to the commencement of this Constitution, other than the court constituted under section 10 of the Bantu Administration Act, 1927 (Act 38 of 1927), shall remain in existence and in operation in accordance with its existing constitution and jurisdiction until altered or disestablished by or under any Act of Parliament;
- (b) the laws which immediately prior to the commencement of this Constitution applied to the High Court referred to in section 89(1) shall apply *mutatis mutandis* to the Supreme Court: Provided that any reference in any such laws to the "Minister of Bantu Administration and Development" and the "Secretary for Bantu Administration and Development" shall be construed as a reference to the Minister of Law and Order and the Secretary for Law and Order respectively;
- (c) all proceedings pending immediately prior to the commencement of this Constitution —
 - (i) in any court considered under section 10 of the said Bantu Administration Act, 1927 and in the aforesaid High Court shall stand removed to the magistrate's court of the district and the Supreme Court, respectively, which shall have jurisdiction to hear and determine the same; and
 - (ii) in any court constituted or established under section 13 of the said Bantu Administration Act, 1927 or section 10 of the Bantu Administration Act, 1927, Amendment Act, 1929 (Act 9 of 1929) shall be continued and concluded in every respect as if this Constitution had not been passed;
- (d) all judgments and orders of the said High Court or any other court (other than the Supreme Court) referred to in paragraph (a) or (c) shall have the same force and effect as if they had been given

or made by the Supreme Court or, as the case may be, the court of corresponding jurisdiction in Bophuthatswana.

[Para. (c) deleted by s. 6 of Act 31 of 1982]

Bophuthatswana
Revenue Fund

92. Notwithstanding the provisions of section 98(1) the Bophuthatswana Revenue Fund established by section 6 of the Bantu Homelands Constitution Act, 1971 (Act 21 of 1971) shall be continued.

Application of
laws and vesting
of rights, etc

93(1). Subject to the provisions of this Constitution, all laws which immediately prior to the commencement of this Constitution, were in operation in any district of Bophuthatswana shall continue in operation and continue to apply except in so far as such laws are substituted by any applicable law of Bophuthatswana or are amended or repealed by Parliament by or in terms of this Constitution: Provided that the laws mentioned in Schedule 6, together with any amendments thereof in operation immediately prior to the commencement of this Constitution shall apply throughout Bophuthatswana or, as the case may be, to or in respect of all persons in Bophuthatswana until amended or repealed by an Act of Parliament: Provided further that, until otherwise provided by Parliament, the laws regulating the affairs of any Department of Posts and Telecommunications or any similar department established under section 35(1) shall be deemed to have been amended to provide for the administration of that department as a department of State and not in accordance with the principles prescribed in the Post Office Re-adjustment Act, 1968 (Act 67 of 1968).

[Sub-s. (1) substituted by s. 3(1)(a) of Act No. 52 of 1980]

(1A) Upon the addition of any land or territory to Bophuthatswana —

- (a) all laws, together with all proclamations, regulations, by-laws and notices issued, made or given thereunder, in operation in Bophuthatswana immediately prior to the date of such addition, shall, as from such date apply and be of force in the land or territory so added except such of the said laws (if any) as may, in relation to any such land or territory in question, be specifically excluded in Schedule 8 of this Constitution, and which shall not so apply and be of force; and
- (b) all laws in operation in such land or territory immediately prior to the date of such addition, shall, as from such date, lapse and cease to be of force in the land or territory so added except such of the last-mentioned laws (if any) or such parts thereof as may, in relation to any such land or terri-

tory in question, be specified in Schedule 9 of this Constitution and which shall together with all proclamations, regulations, by-laws and notices issued, made or given thereunder and of force in such land or territory immediately prior to the date of such addition, continue in operation and continue to apply in such land or territory until such time as it is substituted, amended or repealed by or in terms of an Act of Parliament.

[Sub-s. (1A) inserted by s. 3(1)(b) of Act No. 52 of 1980]

(1B) The exclusion or continuation, in terms of paragraph (a) or (b) of subsection (1A), of laws for any particular land or territory being added to Bophuthatswana —

- (a) shall be effected by way of an Act of Parliament specifically adopted for that purpose in relation to the land or territory in question: Provided that —
 - (i) if Parliament is then not in session and it is not practicable to convene Parliament timeously for the purpose of adopting such an Act before the date of the addition of any land or territory to Bophuthatswana, the President acting in consultation with the Executive Council, may by way of proclamation in the *Gazette*, effect the said exclusion or continuation in relation to the land or territory in question, and any such proclamation shall be laid on the table of the National Assembly for ratification within fourteen days after the commencement of its next ensuing session; and
 - (ii) in the case of the addition of Mafikeng as defined in paragraph 1 of Schedules 8 and 9 of this Constitution, the said exclusion and continuation shall be effected by the Republic of Bophuthatswana Constitution Third Amendment Act, 1980; and
- (b) shall be of general application and effect in the land or territory in question, unless specified to the contrary in such Act or proclamation (as the case may be).

[Sub-s. (1B) inserted by s. 3(1)(b) of Act No. 52 of 1980]

(2) All rights, powers, authorities, duties, obligations and functions which were vested in or devolved upon a Minister or other authority or person in the Republic of South Africa (including any authority or person in any provincial admini-

stration) by or under any law of the Republic of South Africa which continues to apply in Bophuthatswana in terms of subsections (1) and (1A) shall vest in or devolve upon the corresponding Minister, authority or person exercising similar powers or performing similar duties or functions in Bophuthatswana and in the absence of such corresponding Minister, authority or person, upon the Minister, authority or person designated by the President, and any regulation, rule, order, notice, approval, registration or authority made, given or granted and any other authority or person in the Republic of South Africa prior to the commencement of this Constitution shall in relation to the administration of Bophuthatswana, be deemed to have been made, given, granted or taken by such corresponding Minister, authority or person in Bophuthatswana.

[Sub-s. (2) amended by s. 3(1)(c) of Act No. 52 of 1980]

(3) Any reference in any law which continues to apply in Bophuthatswana in terms of subsection (1) or (1A)(b) to —

- (a) the Cape Colony, the Cape Province, the Zuid-Afrikaansche Republiek, the Orange Free State, the Transvaal, the Union of South Africa or the Republic, shall be construed as a reference to the Republic of Bophuthatswana;
- (b) the Crown, the King, the Queen, the Governor-General, Governors or Lieutenant-Governors or the State President shall be construed as a reference to the Republic of Bophuthatswana or the President as the circumstances may require;
- (c) the King-in-Council, the Queen-in-Council or the Governor-General-in-Council, shall be construed as a reference to the President;
- (d) the Cabinet or the Cabinet of Bophuthatswana, shall be construed as a reference to the Executive Council of the Republic of Bophuthatswana;
- (e) the Administrator of the Cape Province or the Transvaal or the Orange Free State shall be construed as reference to the President or to the responsible Minister as the circumstances may require;
- (f) the Supreme Court of South Africa or any judge thereof shall be construed as a reference to the Supreme Court of Bophuthatswana or any judge thereof;
- (g) the **Official Gazette** or the **Official Gazette** of Bophuthatswana or the **Gazette**, the **Government**

Gazette of the Republic of South Africa or the **Provincial Gazette** shall be construed as a reference to the **Government Gazette** of the Republic of Bophuthatswana.

[Sub-s. (3) amended by s. 3(1)(d) of Act No. 52 of 1980]

(4) If any provisions of subsection (1), (1A), (2) or (3) gives rise to administrative difficulty, the President may by proclamation in the **Gazette** make such provision as he may deem necessary to remove such difficulty.

[Sub-s. (4) substituted by s. 3(1)(e) of Act No. 52 of 1980]

(5) Any agreement concluded between the Government of the Republic of Bophuthatswana and the Government of the Republic of South Africa prior to independence of the Republic of Bophuthatswana, shall acquire legal force and effect in the Republic of Bophuthatswana from the date of Independence of the Republic of Bophuthatswana, upon a notice to this effect being proclaimed in the **Gazette** by the President.

94. Any person who immediately prior to the commencement of this Constitution holds the office of chairman or member of the public service commission established in terms of any law repealed by section 98(1) shall be deemed to have been appointed under section 74 as chairman or other member of the public service commission established by that section and shall continue in office for the period for which he would have held office if this Constitution had not been passed.

Public Service
Commission

95.(1) All persons who immediately prior to the commencement of this Constitution are in the service of the Government of Bophuthatswana shall become public servants of Bophuthatswana.

Public Servants

(2) Any person who becomes a servant of Bophuthatswana under sub-section (1) or who, on or after the date of commencement of this Constitution is transferred from the service of any other government to the service of Bophuthatswana shall be entitled to retire from the service of Bophuthatswana at the time at which he would have been entitled to retire if he had not become a servant of Bophuthatswana.

96. All rights and obligations under conventions, treaties or other similar agreements which were binding on the Government of Bophuthatswana immediately prior to the commencement of this Constitution shall be rights and obligations of Bophuthatswana.

Certain agreements
binding on
Bophuthatswana

97.(1) All criminal proceedings shall be instituted in the name of the Republic of Bophuthatswana and any criminal pro-

Institution or
continuation of
legal proceedings

ceedings which have not been concluded before the commencement of this Constitution, or which although concluded may thereafter be reopened, shall be continued in all respects as if this Constitution had not been passed, save that such proceedings shall be continued in the name of the Republic of Bophuthatswana.

(2) Any civil proceedings by or against any Minister as representing the Government of the self-governing territory of Bophuthatswana which have not been brought to finality before the commencement of this Constitution, or which having been concluded may thereafter be reopened, may be continued against that Minister but as representing the Government.

Repeal of laws
and savings

98. (1) The laws specified in Schedule 7 are hereby repealed to the extent set out in the third column of that Schedule.

(2) Notwithstanding the provisions of sub-section (1) and until otherwise provided in an Act of Parliament —

(a) the registration of voters for the purposes of this Constitution and the conduct of the elections of the elected members of the National Assembly shall continue to be governed by Proclamation R.150 of 1972.

(b) the powers and duties of the public service commission established by section 74 and the tenure of office of its members and the conditions of service, appointment, tenure of office, discipline, retirement and discharge of public servants of Bophuthatswana shall be prescribed in the Bophuthatswana Public Service Act, 1972 (Act 4 of 1972); and

(c) the provisions of section 36 of the Bantu Homelands Constitution Act, 1971 (Act 21 of 1971) shall, subject to the provisions of section 87 of this Constitution, continue to apply in respect of the transfer to the Government of the land or other public property referred to in the said section 36.

(3) The funds appropriated by the Bophuthatswana Legislative Assembly for the administration during the financial year ending 31 March 1978 of the self-governing territory of Bophuthatswana shall, in respect of payments to be made on or after 6 December, 1977, be deemed to have been lawfully appropriated by Parliament for the administration of Bophuthatswana.

(4) Nothing in this Constitution contained shall be con-

strued as affecting any assets, rights, debts or liabilities of the former territory of Bophuthatswana as existing immediately prior to the commencement of this Constitution, and such assets, rights, debts and liabilities shall become the assets, rights, debts and liabilities of Bophuthatswana subject to the conditions under which they were acquired or incurred and without prejudice to any claim which any creditor of such former territory may have had against the Government thereof.

(5) For the purposes of any law which, in terms of the first proviso to section 93(1) applies throughout Bophuthatswana (hereinafter referred to as the Bophuthatswana law) anything done in pursuance of powers conferred on the competent authority by or by virtue of any provision of law repealed by sub-section (1) shall be deemed to have been done in pursuance of powers conferred on such authority by or by virtue of the corresponding provision of the Bophuthatswana law.

99. This Act shall be called the Republic of Bophuthatswana Constitution Act, 1977 and shall come into operation on 6 December, 1977, after signature by the Chairman of the Legislative Assembly.

Short title and
commencement

SCHEDULE 1

NATIONAL ANTHEM

Lefatshe la Borrarona

1. Lefatshe leno la borrarona
Re le abetswe ke Modimo
Kwa ntle ga tshololo ya madi
A re lebogeng, a re ipeleng (2)
2. Lefatshe leno la borrarona
Re le abela matshelo a rona
Re tla le fufulelelwa
Sethitho se fetoge madi (2)
3. Lefatshe la kgomo le mabele
Boswa jwa rona ka bosakhutleng
Ramasedi a le dibeke
Re tshele mo go lone ka pabalesego
4. Modimo tshegofatsa fatshe le
Go rene kagiso le kutlwano
Tshegofatsa Setshaba sa rona le yone Puso ya rona
Go ntsha maungo a a tshedising.

SCHEDULE 2

COAT OF ARMS OF REPUBLIC OF BOPHUTHATSWANA

Description:

Per fess gules and vert, in chief a mine shaft head gear
Or, in base dexter three grain sorghum ears seeded in
bend and in sinister an ox head caboshed in bend
sinister Or, the whole interlaced palewise through four
slots a plumed warrior staff erect Or in front of a battle
axe and spear in saltire Or.

Supporters: Two leopards rampart gardant proper
langued gules on a mound proper with an escroll Or
with letter sable.

Motto:

TSHWARAGANANG LO DIRE PULA E NE

SCHEDULE 3

DISTRICTS COMPRISING BOPHUTHATSWANA

1. Tlhaping-Tlharo
2. Ganyesa

3. Molopo
4. Ditsobotla
5. Taung
6. Lehurutshe
7. Mankwe
8. Bafokeng
9. Odi
10. Moretele
11. Madikwe
12. Thaba 'Nchu

SCHEDULE 4

DESIGN OF SEAL OF SUPREME COURT OF BOPHUTHATSWANA

The Seal of the Supreme Court of Bophuthatswana shall be
in the form of a circle in which shall appear the coat-of-arms
of the Republic of Bophuthatswana encompassed by a wider
circle containing the words:

“KGOTLATSHEKELO YA MAKGAOLAKGANG
SUPREME COURT HOOGGEREGSHOF
BOPHUTHATSWANA”

SCHEDULE 5

OATH OF OFFICE OF JUDGE OF THE SUPREME COURT OF BOPHUTHATSWANA

“I, do hereby swear that
in the discharge of my office as judge of the Supreme Court
of Bophuthatswana I will administer justice to all persons
without fear, favour or prejudice and in accordance with
the Constitution, laws and customs of the Republic of
Bophuthatswana.

So Help Me God.”

SCHEDULE 6

LAWS REFERRED TO IN FIRST PROVISIO TO SECTION 93(1)

<i>No. and Year of Law</i>	<i>Title</i>
Act 4 of 1972	Bophuthatswana Public Service Act, 1972
Act 7 of 1972	Animals Protection Act, 1972
Act 8 of 1972	Bophuthatswana Flag Act, 1972
Act 57 of 1972	Age of Majority Act, 1972
Act 3 of 1973	Bophuthatswana Nature Conservation Act, 1973
Act 4 of 1973	Bophuthatswana Apprenticeship Act, 1973
Act 5 of 1973	Bophuthatswana Public Service Amendment Act, 1973
Act 6 of 1973	Bophuthatswana Agricultural Development Act, 1973
Act 7 of 1973	Bophuthatswana Road Traffic Act, 1973
Act 8 of 1973	Bophuthatswana Public Holidays Amendment Act, 1973
Act 9 of 1973	Bophuthatswana Education Act, 1973
Act 9 of 1973	Animal Diseases and Parasites Amendment Act, 1973
Act 10 of 1973	Bophuthatswana Establishment of Magistrate's Courts Act, 1973
Act 12 of 1973	Bophuthatswana Intoxicating Liquor Act, 1973
Act 61 of 1973	Companies Act, 1973
Act 74 of 1973	Children's Amendment Act, 1973
Act 3 of 1974	Bophuthatswana Intoxicating Liquor Amendment Act, 1974
Act 5 of 1974	Bophuthatswana Special Taxation Act, 1974
Act 6 of 1974	Bophuthatswana Education Amendment Act, 1974
Act 7 of 1974	Bophuthatswana Pounds Act, 1974
Act 8 of 1974	Bophuthatswana Agricultural Development Amendment Act, 1974
Act 28 of 1974	International Health Regulations Act, 1974
Act 42 of 1974	Publications Act, 1974
Act 52 of 1974	Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974
Act 53 of 1974	Pharmacy Act, 1974
Act 56 of 1974	Medical, Dental and Supplementary Health Service Professions Act, 1974
Act 58 of 1974	Water Amendment Act, 1974
Act 65 of 1974	Drugs Control Amendment Act, 1974
Act 76 of 1974	Companies Amendment Act, 1974
Act 4 of 1975	Bophuthatswana Intoxicating Liquor Amendment Act, 1975
Act 5 of 1975	Bophuthatswana General Loans Act, 1975
Act 8 of 1975	Bophuthatswana Tender Board Act, 1975

<i>No. and Year of Law</i>	<i>Title</i>
Act 9 of 1975	Bophuthatswana Justices of the Peace and Commissioners of Oaths Amendment Act, 1975
Act 10 of 1975	Bophuthatswana Regional Authorities Amendment Act, 1975
Act 18 of 1975	Architects Amendment Act, 1975
Act 41 of 1975	Law Societies Act, 1975
Act 42 of 1975	Water Amendment Act, 1975
Act 53 of 1975	Public Accountants and Auditors Amendment Act, 1975
Act 55 of 1975	Prescribed Rate of Interest Act, 1975
Act 63 of 1975	Expropriation Act, 1975
Act 5 of 1976	Bophuthatswana Special Taxation Amendment Act, 1976
Act 6 of 1976	Bophuthatswana Magistrates' Court Amendment Act, 1976
Act 8 of 1976	Bophuthatswana Intoxicating Liquor Amendment Act, 1976
Act 16 of 1976	Hazardous Substances Amendment Act, 1976
Act 17 of 1976	Dental Mechanics Amendment Act, 1976
Act 19 of 1976	Medicines and Related Substances Control Amendment Act, 1976
Act 20 of 1976	Chiropractors Amendment Act, 1976
Act 27 of 1976	Water Amendment Act, 1976
Act 43 of 1976	Children's Amendment Act, 1976
Act 48 of 1976	Mental Health Amendment Act, 1976
Act 53 of 1976	Plant Improvement Act, 1976

SCHEDULE 7

LAWS REPEALED

[Schedule 7 amended by Proclamation No. 18 of 22 September, 1978, by Proclamation No. 13 of 23 November, 1979 and by s. 5 of Act No. 55 of 1980]

<i>No. and Year of Law</i>	<i>Title</i>	<i>Extent of Repeal</i>
Act 24 of 1913 Act 44 of 1926 Act 38 of 1927	Administration of Estates Act, 1913 Financial Adjustments Act, 1926 Bantu Administration Act, 1927	The whole Section 3 Sections 1, 2(1), (2), (3), (5), (6), (8)bis and (8)ter, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 25, 26 and 31: Provided that all laws made under section 25 (1) and in operation and of force in Bophuthatswana immediately prior to the date of the commencement of this Constitution, shall as from such date continue to be operative and to be of force in Bophuthatswana except in so far as they may be substituted, repealed or amended by, or in terms of or by virtue of an Act of Parliament

No. and Year of Law	Title	Extent of Repeal
Act 9 of 1929	Bantu Administration Act, 1927 Amendment Act, 1929	Section 10
Act 45 of 1931	Financial Adjustment Act, 1931	Section 4
Act 17 of 1938	Finance Act, 1938	Sections 20 and 21
Act 46 of 1944	Finance Act, 1944	Section 18
Act 46 of 1946	Electoral Consolidation Act, 1946	The whole
Act 57 of 1946	Finance Act, 1946	Section 19
Act 50 of 1948	Electoral Law Amendment Act, 1948	The whole
Act 55 of 1949	Prohibition of Mixed Marriages Act, 1949	The whole
Act 68 of 1951	Bantu Authorities Act, 1951	The whole
Act 55 of 1952	Electoral Laws Amendment Act, 1952	The whole
Act 45 of 1953	Finance Act, 1953	Section 12
Act 49 of 1953	Reservation of Separate Amenities Act, 1953	The whole
Act 62 of 1955	General Law Amendment Act, 1955	Sections 8 to 12 inclusive and the First Schedule
Act 45 of 1955	Estate Duty Act, 1955	The whole
Act 8 of 1957	Electoral Laws Further Amendment Act, 1957	The whole
Act 23 of 1957	Immorality Act, 1957	Section 16
Act 68 of 1957	General Law Amendment Act, 1957	Sections 15 to 21 inclusive
Act 81 of 1957	Finance Act, 1958	Section 8
Act 30 of 1958	Electoral Laws Amendment Act, 1958	The whole
Act 37 of 1958	Finance Act, 1958	Section 10
Act 46 of 1959	Promotion of Bantu Self-government Act, 1959	The whole
Act 55 of 1959	Bantu Affairs Act, 1959	The whole
Act 10 of 1960	Reservation of Separate Amenities Act, 1960	The whole
Act 56 of 1960	Cinematograph Films Tax Act, 1960	The whole
Act 32 of 1961	Republic of South Africa Constitution Act, 1961	The whole
Act 76 of 1961	Finance Act, 1961	Section 5
Act 81 of 1961	Electoral Laws Amendment Act, 1961	The whole
Act 28 of 1962	Provincial Executive Committees Act, 1962	The whole
Act 46 of 1962	Bantu Laws Amendment Act, 1962	Section 13
Act 65 of 1962	Constitution Amendment Act, 1962	The whole
Act 72 of 1962	Electoral Laws Amendment Act, 1962	The whole
Act 93 of 1962	General Law Further Amendment Act, 1962	Sections 6 to 12 inclusive
Act 9 of 1963	Constitution Amendment Act, 1963	The whole
Act 22 of 1963	Provincial Councils and Executive Committees Act, 1963	The whole
Act 47 of 1963	Coloured Persons Education Act, 1963	Section 37
Act 64 of 1963	Provincial Executive Committees Act, 1963	The whole
Act 76 of 1963	Bantu Laws Amendment Act, 1963	Sections 13 and 14
Act 93 of 1963	General Law Further Amendment Act, 1963	Section 1
Act 42 of 1964	Bantu Laws Amendment Act, 1964	Sections 77, 78 and 79
Act 49 of 1964	Coloured Persons' Representative Council Act, 1964	The whole
Act 31 of 1964	Electoral Laws Amendment Act, 1964	The whole
Act 83 of 1965	Constitution Amendment Act, 1965	The whole
Act 84 of 1965	Electoral Laws Amendment Act, 1965	The whole
Act 102 of 1965	Pensions Laws Amendment Act, 1965	Section 18
Act 29 of 1966	Electoral Laws Amendment Act, 1966	The whole
Act 36 of 1966	Group Areas Act, 1966	The whole
Act 37 of 1966	Constitution Amendment Act, 1966	The whole
Act 58 of 1966	Second Finance Act, 1966	Sections 18 and 19
Act 63 of 1966	Bantu Laws Amendment Act, 1966	Section 6
Act 9 of 1967	Constitution Amendment Act, 1967	The whole
Act 2 of 1968	Electoral Laws Amendment Act, 1968	The whole
Act 50 of 1968	Separate Representation of Voters Amendment Act, 1968	The whole
Act 51 of 1968	Prohibition of Political Interference Act, 1968	The whole
Act 52 of 1968	Coloured Persons' Representative Council Amendment Act, 1968	The whole
Act 56 of 1968	Bantu Laws Amendment Act, 1968	Sections 5, 6 and 7
Act 37 of 1969	Power and Privileges of Provincial Councils Amendment Act, 1969	The whole
Act 69 of 1969	Group Areas Amendment Act, 1969	The whole
Act 99 of 1969	Electoral Laws Amendment Act, 1969	The whole
Act 101 of 1969	General Law Amendment Act, 1969	Sections 20, 23 and 24
Act 12 of 1970	Electoral Laws Amendment Act, 1970	The whole
Act 27 of 1970	Second Bantu Laws Amendment Act, 1970	Sections 4, 5, 6, 7, 8 and 9
Act 49 of 1970	Third Bantu Laws Amendment Act, 1970	Sections 2, 3 and 12
Act 58 of 1970	Births, Marriages and Deaths Registration Amendment Act, 1970	Sections 47 and 48
Act 87 of 1970	Coloured Persons' Representative Council Amendment Act, 1970	The whole
Act 1 of 1971	Constitution Amendment Act, 1971	The whole
Act 21 of 1971	Bantu Homelands Constitution Act, 1971	The whole
Act 64 of 1971	Electoral Laws Amendment Act, 1971	The whole
Act 93 of 1971	Pension Laws Amendment Act, 1971	Section 1
Act 23 of 1972	Bantu Laws Amendment Act, 1972	Sections 5, 6 and 7
Act 38 of 1972	Sea-Shore Amendment Act, 1972	Section 5
Act 61 of 1972	Provincial Affairs Act, 1972	Sections 3, 4 and 5
Act 83 of 1972	Group Areas Amendment Act, 1972	The whole
Act 99 of 1972	Coloured Persons' Representative Council Amendment Act, 1972	The whole
Act 102 of 1972	General Law Amendment Act, 1972	Sections 20 and 21
Act 7 of 1973	Bantu Law Amendment Act, 1973	Sections 7, 8 and 9
Act 62 of 1973	General Law Amendment Act, 1973	Sections 4, 30 and 50

No. and Year of Law	Title	Extent of Repeal
Act 79 of 1973	Constitution and Elections Amendment Act, 1973	The whole
Act 1 of 1974	Electoral Laws Amendments Act, 1974	The whole
Act 33 of 1974	Parliamentary Service Act, 1974	The whole
Act 48 of 1974	Constitution Amendment Act, 1974	The whole
Act 70 of 1975	Bantu Laws Amendment Act, 1974	Sections 9, 10, 12, 13, 14, 18, 19, 20, 21, 22, 23 and 24
Act 72 of 1974	Second Bantu Laws Amendment Act, 1974	Sections 2, 7, 8, 9 and 10
Act 72 of 1974	Group Areas Amendment Act, 1974	The whole
Act 94 of 1974	Second General Law Amendment Act, 1974	Sections 40, 41 and 42
Act 32 of 1975	Coloured Persons' Representative Council Amendment Act, 1975	The whole
Act 29 of 1976	Coloured Persons' Education Amendment Act, 1976	The whole
Act 60 of 1976	Constitution Amendment Act, 1976	The whole
Act 94 of 1976	Coloured Persons' Representative Council Amendment Act, 1976	The whole
Act 95 of 1976	Second Coloured Persons' Education Amendment Act, 1976	The whole
Act 98 of 1976	Electoral Laws Amendment Act, 1976	The whole
Ordinance 23 of 1930 (Cape)	Entertainment Duty Ordinance, 1930	The whole
Ordinance 14 of 1965 (Orange Free State)	Entertainment Tax Ordinance, 1965	The whole

SCHEDULE 8

[Schedule 8 added by s. 4 of Act No. 52 of 1980 and amended by s. 6 of Act No. 55 of 1980]

LAW IN OPERATION IN BOPHUTHATSWANA WHICH SHALL BE EXCLUDED AND SHALL NOT APPLY TO BE OF FORCE IN TERMS OF SECTION 93(1A)(a). IN THE LAND OR TERRITORIES SET OUT HEREUNDER THE ADDITION THEREOF TO BOPHUTHATSWANA.

1. MAFIKENG: being, for the purposes of this Constitution, all such land which, immediately prior to the twentieth day of September, 1980, constituted part of the magisterial district of Mafikeng in the Republic of South Africa as may, by virtue of the provisions of the Borders of Particular States Extension Act, 1980 (Act 2 of 1980), of the Republic of South Africa, as amended by section 8 of the Laws on Co-operation and Development Second Amendment Act, 1980 (Act 94 of 1980), of the Republic of South Africa, have ceased to be a part of that State as from or after such date and which, with effect from the date upon which it so ceases to be a part of the Republic of South Africa, in terms of the Bophuthatswana Border Extension Act, 1980 (Act 24 of 1980), becomes a part of Bophuthatswana or is, in consequence of a proclamation under the last-mentioned Act, in terms of section 3 of such Act administered as a part of Bophuthatswana.

No. and Year of Law	Short Title	If law not wholly excluded, extent to which retained
Act 36 of 1919	Public Health Act, 1919	
Act 36 of 1927	Public Health Act, 1919, Amendment Act, 1927	
Act 15 of 1928	Public Health (Amendment) Act, 1928	
Act 57 of 1935	Public Health Amendment Act, 1935	
Act 14 of 1938	Public Health Amendment Act, 1938	
Act 14 of 1940	Public Health Amendment Act, 1940	
Act 14 of 1942	Public Health Acts, Amendment Act, 1942	
Act 51 of 1946	Public Health Amendment Act, 1946	
Act 44 of 1952	Public Health Amendment Act, 1952	
Act 60 of 1956	Public Health Amendment Act, 1956	
Act 71 of 1959	Public Health Amendment Act, 1959	
Act 33 of 1961	Public Health Amendment Act, 1961	
Act 79 of 1963	Public Health Amendment Act, 1963	
Act 38 of 1965	Public Health Amendment Act, 1965	
Act 13 of 1969	Public Health Amendment Act, 1969	
Act 30 of 1970	Public Health Amendment Act, 1970	
Act 42 of 1971	Public Health Amendment Act, 1971	
Act 45 of 1976	Public Health Amendment Act, 1976	
Act 23 of 1934	Attorneys, Notaries and Conveyancers Admission Act, 1934	
Act 16 of 1938	Attorneys, Notaries and Conveyancers Admission (Amendment) Act, 1938	
Act 22 of 1949	Attorneys, Notaries and Conveyancers Admission Amendment Act, 1949	
Act 18 of 1956	Legal Practitioners' Amendment Act, 1956	
Act 31 of 1957	State Attorney Amendment Act, 1957	
Act 81 of 1962	Legal Practitioners' Amendment Act, 1962	
Act 63 of 1964	Attorneys, Notaries and Conveyancers Admission Amendment Act, 1964	
Act 26 of 1965	Attorneys, Notaries and Conveyancers Admission Amendment Act, 1965	
Act 67 of 1967	Attorneys, Notaries and Conveyancers Admission Amendment Act, 1967	
Act 93 of 1970	Attorneys, Notaries and Conveyancers Admission Amendment Act, 1970	
Act 14 of 1976	Attorneys Amendment Act, 1976	
Act 115 of 1976	Second Attorneys Amendment Act, 1976	
Act 42 of 1979	Attorneys, Notaries and Conveyancers Admission Amendment Act, 1979	
Act 7 of 1974	Pounds Act, 1974	

Only section 19 to 24 inclusive
The whole, except section 2
Only sections 8, 9, 10 and 11

Only section 6
The whole, except section 1

No. and Year of Law	Short Title	Limitation on continuation of law (if any)
Act 4 of 1976	Registration and Control of Dogs Act, 1976	In so far as it relates to the registration and control of dogs outside the Municipal area of Mafikeng
Act 9 of 1978	National Library Services Act, 1978	In so far as library services in Mafikeng are not provided by or on behalf of the Government of the Republic of South Africa in terms of any agreement with Bophuthatswana
Act 7 of 1980	National Library Services Amendment Act, 1980	In so far as the education in schools in Mafikeng is not provided by or on behalf of the Government of the Republic of South Africa in terms of any agreement with Bophuthatswana
Act 2 of 1979	National Education Act, 1979	In so far as it does not relate to business and trading undertakings within the Municipal area of Mafikeng
Act 9 of 1979	Fire Brigade Services Act, 1979	In so far as it does not relate to block dwellings within the Municipal area of Mafikeng
Act 26 of 1979	Business and Trading Undertaking Act, 1979	
Act 30 of 1980	Business and Trading Undertakings Amendment Act, 1980	
Act 10 of 1980	Block Dwelling Erection Control Act, 1980	

SCHEDULE 9

[Schedule 9 added by s. 4 of Act No. 52 of 1980]

LAW IN OPERATION IN THE LAND OR TERRITORIES SET OUT HEREUNDER WHICH SHALL CONTINUE IN OPERATION AND CONTINUE TO APPLY UPON THE ADDITION OF SUCH LAND OR TERRITORIES TO BOPHUTHATSWANA:

1. MAFIKENG: being, for the purpose of this Constitution, all such land which, immediately prior to the twentieth day of September, 1980, constituted part of the magisterial district of Mafikeng in the Republic of South Africa as may, by the virtue of the provisions of the Borders of Particular States Extension Act, 1980 (Act 2 of 1980), of the Republic of South Africa, as amended by section 8 of the Laws on Co-operation and Development Second Amendment Act, 1980 (Act 94 of 1980), of the Republic of South Africa, have ceased to be a part of that State as from or after such date and which, with effect from the date upon which it so ceased to be a part of that State as from or after such date which, with effect from the date upon which it so ceases to be a part of the Republic of South Africa, in terms of the Bophuthatswana Border Extension Act, 1980 (Act 24 of 1980), becomes a part of Bophuthatswana or is, in consequence of a proclamation under the last-mentioned Act, in terms of section 3 of such Act administered as a part of Bophuthatswana.

No. and Year of Law	Short Title	Limitation on continuation of law (if any)
Act 3 of 1883	Cemeteries Act, 1883, as amended immediately prior to 31 May 1910	
Ord 20 of 1935	Cemeteries Act Amendment Ordinance, 1935	
Ord 6 of 1926	Cremation Ordinance, 1926	
Ord 14 of 1929	Cremation Amendment Ordinance, 1929	
Ord 18 of 1969	Cremation Amendment Ordinance, 1969	
Ord 33 of 1934	Townships Ordinance, 1934	
Ord 6 of 1941	Townships Amendment Ordinance, 1941	
Ord 30 of 1948	Townships Amendment Ordinance, 1948	
Ord 11 of 1949	Townships Amendment Ordinance, 1949	
Ord 9 of 1950	Townships Amendment Ordinance, 1950	
Ord 16 of 1953	Townships Amendment Ordinance, 1953	
Ord 17 of 1954	Townships Amendment Ordinance, 1954	
Ord 17 of 1955	Townships Amendment Ordinance, 1955	
Ord 10 of 1958	Townships Amendment Ordinance, 1958	
Ord 19 of 1959	Townships Amendment Ordinance, 1959	
Ord 12 of 1962	Townships Amendment Ordinance, 1962	
Ord 5 of 1964	Townships Amendment Ordinance, 1964	
Ord 26 of 1964	Townships Further Amendment Ordinance, 1964	
Ord 20 of 1966	Townships Amendment Ordinance, 1966	
Ord 10 of 1967	Townships Amendment Ordinance, 1967	
Ord 28 of 1968	Townships Amendment Ordinance, 1968	
Ord 25 of 1969	Townships Amendment Ordinance, 1969	
Ord 13 of 1970	Townships Amendment Ordinance, 1970	
Ord 13 of 1971	Townships Amendment Ordinance, 1971	
Ord 3 of 1972	Townships Amendment Ordinance, 1972	
Ord 18 of 1972	Townships Second Amendment Ordinance, 1972	
Ord 17 of 1973	Townships Amendment Ordinance, 1973	

No. and Year of Law	Short Title	Limitation on continuation of law (if any)
Ord 12 of 1974	Townships Amendment Ordinance, 1974	
Ord 12 of 1975	Townships Amendment Ordinance, 1975	
Ord 9 of 1976	Townships Amendment Ordinance, 1976	
Ord 6 of 1977	Townships Amendment Ordinance, 1977	
Ord 23 of 1935	Local Authorities (Investment of Funds) Ordinance, 1935	
Ord 15 of 1948	Local Authorities (Investment of Funds) Amendment Ordinance, 1948	
Ord 20 of 1957	Local Authorities (Investment of Funds) Amendment Ordinance, 1957	
Ord 18 of 1968	Local Authorities (Investment of Funds) Amendment Ordinance, 1968	
Ord 17 of 1938	Local Authorities (Audit) Ordinance, 1938	
Ord 6 of 1947	Public Bodies and Local Authorities Audit Amendment Ordinance, 1947	
Ord 4 of 1950	Local Authorities Audit Amendment Ordinance, 1950	
Ord 11 of 1962	Local Authorities (Audit) Amendment Ordinance, 1962	
Ord 19 of 1966	Local Authorities (Audit) Amendment Ordinance, 1966	
Ord 12 of 1968	Local Authorities (Audit) Amendment Ordinance, 1968	
Ord 9 of 1969	Local Authorities (Audit) Amendment Ordinance, 1969	
Ord 23 of 1970	Local Authorities (Audit) Amendment Ordinance, 1970	
Ord 16 of 1978	Local Authorities (Audit) Amendment Ordinance, 1978	
Ord 18 of 1938	Pounds Ordinance, 1938	
Ord 30 of 1940	Pounds (Amendment) Ordinance, 1940	Pounds (Amendment) Ordinance, 1941
Ord 14 of 1941	Pounds (Amendment) Ordinance, 1941	
Ord 8 of 1950	Pounds (Amendment) Ordinance, 1950	
Ord 18 of 1960	Decimal Coinage Ordinance, 1960	Section 3 only
Ord 23 of 1962	Local Authorities Pounds Ordinance, 1962	
Ord 21 of 1970	Pounds (Amendment) Ordinance, 1970	
Ord 7 of 1971	Pounds Amendment Ordinance, 1971	
Ord 26 of 1944	Valuations Ordinance, 1944	
Ord 13 of 1945	Valuations Amendment Ordinance, 1945	
Ord 7 of 1956	Valuations Amendment Ordinance, 1956	
Ord 22 of 1959	Valuations Amendment Ordinance, 1959	
Ord 8 of 1960	Valuations Amendment Ordinance, 1960	
Ord 18 of 1961	Valuations Amendment Ordinance, 1961	
Ord 15 of 1965	Valuations Amendment Ordinance, 1965	
Ord 8 of 1966	Valuations Amendment Ordinance, 1966	
Ord 32 of 1968	Valuations Amendment Ordinance, 1968	
Ord 17 of 1976	Valuations Amendment Ordinance, 1976	
Ord 10 of 1977	Valuations Amendment Ordinance, 1977	
Ord 17 of 1978	Valuations Amendment Ordinance, 1978	
Ord 18 of 1946	Hospitals Ordinance, 1946, as amended from time to time by the Provincial Council of the Province of the Cape of Good Hope	In so far as it relates to the Victoria Hospital in Mafikeng where the Hospitals Department of the Provincial Administration of the Province of the Cape of Good Hope is to provide hospital services in terms of the agreements by the Government of the Republic of South Africa with Bophuthatswana
Ord 15 of 1953	Registration and Licensing of Businesses Ordinance, 1953	
Ord 22 of 1957	Registration of Businesses Amendment Ordinance, 1957	
Ord 15 of 1960	Registration of Businesses Amendment Ordinance, 1960	
Ord 5 of 1962	Registration of Businesses Amendment Ordinance, 1962	
Ord 10 of 1963	Registration of Businesses Amendment Ordinance, 1963	
Ord 19 of 1972	Registration and Licensing of Businesses Amendment Ordinance, 1972	
Ord 20 of 1956	Education Ordinance, 1956, as amended from time to time by the Provincial Council of the Province of the Cape of Good Hope	In so far as the education of pupils and schools and teachers are provided by the Education Department of the Provincial Administration of the Province of the Cape of Good Hope in terms of agreement by the Government of the Republic of South Africa with Bophuthatswana
Ord 6 of 1959	Dwelling Loans Guarantee Ordinance, 1959	
Ord 18 of 1965	Dwelling Loans Guarantee Amendment Ordinance, 1965	
Ord 27 of 1966	Dwelling Loans Guarantee Amendment Ordinance, 1966	
Ord 8 of 1970	Dwelling Loans Guarantee Amendment Ordinance, 1970	
Ord 14 of 1974	Dwelling Loans Guarantee Amendment Ordinance, 1974	
Ord 16 of 1964	Prescription (Local Authorities) Ordinance, 1964	
Ord 9 of 1967	Local Authorities Pensioners' Allowances Ordinance, 1967	
Ord 15 of 1973	Local Authorities Pensioners' Allowances Amendment Ordinance, 1973	
Ord 20 of 1971	Public Resorts Ordinance, 1971	
Ord 9 of 1978	Public Resorts Amendment Ordinance, 1978	
Ord 20 of 1974	Municipal Ordinance, 1974	

No. and Year of Law	Short Title	Limitation on continuation of law (if any)
Ord 11 of 1975	Municipal Amendment Ordinance, 1975	
Ord 15 of 1976	Municipal Amendment Ordinance, 1976	
Ord 4 of 1977	Municipal Amendment Ordinance, 1977	
Ord 16 of 1977	Second Municipal Amendment Ordinance, 1977	
Ord 3 of 1978	Municipal Amendment Ordinance, 1978	
Ord 12 of 1978	Second Municipal Amendment Ordinance, 1978	
Ord 22 of 1978	Third Municipal Amendment Ordinance, 1978	
Ord 7 of 1979	Municipal Amendment Ordinance, 1979	
Ord 17 of 1980	Municipal Amendment Ordinance, 1980	
Ord 8 of 1975	Museums Ordinance, 1975, as amended by Administrators' Proclamation No. 87, 1978	
Ord 11 of 1979	Oude Kerk Volksmuseum van T' Land van Waveren (Tulbagh) Ordinance, 1979	In so far as its relates to museums in general
Ord 14 of 1978	Fire Brigade Services Ordinance, 1978	
Ord 19 of 1978	Dog Tax Ordinance, 1978	
Ord 21 of 1978	Dog Tax Amendment Ordinance, 1978	
Ord 13 of 1979	Dog Tax Amendment Ordinance, 1979	
Ord 15 of 1980	Dog Tax Amendment Ordinance, 1980	
Ord 12 of 1980	Exhumations Ordinance, 1980	
Ord 21 of 1980	Law Revision Ordinance, 1980	
Act 47 of 1963	Coloured Persons Education Act, 1963, and	In so far as the Education of pupils contemplated thereby and the schools and teachers are provided by any Department of State under the Government of the Republic of South Africa in terms of any agreement by the said Government with Bophuthatswana
Act 61 of 1965	Indians Education Act, 1965, both as amended from time to time by Parliament in the Republic of South Africa	
Act 63 of 1977	Health Act, 1977	
Act 18 of 1979	Health Amendment Act, 1979	
Act 15 of 1978	Administration of Estates Amendment Act, 1978	
Act 63 of 1978	Civil Aviation Offences Amendment Act, 1978	
Act 74 of 1978	Sale of land on Instalments Amendment Act, 1978	
Act 80 of 1978	Financial Institutions Amendment Act, 1978	Sections 15 to 21, 22(a), (b) and (c), and 23 to 32 inclusive, only
Act 24 of 1979	Pre-Union Statutes Law Revision Act, 1979	
Act 53 of 1979	Attorneys Act, 1979	
Act 76 of 1980	Attorneys Amendment Act, 1980	
Act 76 of 1979	Slums Act 1979	
Act 81 of 1979	Carriage by Air Amendment Act, 1979	
Act 103 of 1979	Financial Institutions Amendment Act, 1979	Sections 19 to 34 inclusive, only
Act 33 of 1980	Prevention of Illegal Squatting Amendment Act, 1980	Sections 1(a) and (b), in so far as it is not in conflict with section 9 of this Constitution and sections 2 and 3, only
Act 64 of 1980	Aviation Amendment Act, 1980	
Act 99 of 1980	Financial Institutions Amendment Act, 1980	Only sections 23 to 30, sections 42 to 49 and 53 and 56