

# REPUBLIC OF CISKEI CONSTITUTION ACT

## No. 20 OF 1981

[SIGNED BY THE CHAIRMAN OF THE CISKEIAN LEGISLATIVE ASSEMBLY  
ON THE DATE OF COMMENCEMENT: 4 DECEMBER, 1981]

as amended by

Constitution Amendment Act, No. 7 of 1982  
Republic of Ciskei Constitution Amendment Act, No. 21 of 1983  
Supreme Court Act, No. 2 of 1984  
Proclamation No. 8 of 1984  
Republic of Ciskei Constitution Amendment Act, No. 10 of 1984  
Proclamation No. 17 of 1984  
Republic of Ciskei Constitution Amendment Act, No. 4 of 1985  
Territorial Waters Act, No. 12 of 1986  
National Assembly Amendment Act, No. 14 of 1986  
Republic of Ciskei Constitution Amendment Act, No. 15 of 1986  
Health Act, No. 24 of 1986  
Constitution Amendment Act, No. 8 of 1987  
Law of Evidence Amendment Act, No. 8 of 1989  
State Council Decree No. 1 of 1990  
Constitutional Laws Consolidation Decree, No. 33 of 1990

### ACT

To constitute the independent Republic of Ciskei.

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### PREAMBLE

WHEREAS we, the true traditional and elected representatives of the people of Ciskei, in humble awareness of our responsibility before Almighty God and our nation, and deeply conscious of the destiny of our nation in close constitutional, political and economic co-operation with all peace-loving nations in the southern part of Africa, have assembled ourselves in a Constitutional Convention to frame and adopt a constitution for the independent Republic of Ciskei, in which people, irrespective of race or creed, may dwell and prosper in freedom;

BE IT ENACTED by the Legislative Assembly of Ciskei, as follows:

### I. REPUBLIC OF CISKEI

1. **Establishment of Republic.** - (1) Ciskei shall be a sovereign democratic, independent republic in a confederation of Southern African states.

(2) The economy of Ciskei shall be based on private, communal and tribal ownership and free enterprise.

(3) The territory of Ciskei shall consist of the districts mentioned in Schedule I, together with all other land that may lawfully be added thereto.

(4) Bisho shall be the seat of government.

2. **Supreme Law.** - This Constitution shall be the supreme law of Ciskei, and shall bind the legislature, the executive and the judiciary.

3. **International law part of law of Ciskei.** - (1) The general rules of public international law shall be an integral part of the law of Ciskei, and subject to the provisions of this Constitution, they shall take precedence over the laws of Ciskei and shall directly create rights and duties for the people of Ciskei.

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

## II. SYMBOLS AND OFFICIAL LANGUAGES

4. **Official Seal.** - (1) There shall be a Seal of the Republic of Ciskei, designed as set out in Schedule 2.

(2) The Seal shall at all times be in the custody of the President, and except in so far as may be otherwise determined by the President, shall be used on all public documents on which such use is required by this Constitution or any other law.

5. **National Flag.** - There shall be a National Flag of the Republic of Ciskei, designed as set out in Schedule 3.

6. **Coat of Arms.** - There shall be a Coat of Arms of the Republic of Ciskei as set out in Schedule 4.

7. **National Anthem.** - The National Anthem of the Republic of Ciskei shall be Nkosi Sikelel' iAfrika as set out in Schedule 5.

8. **Languages.** - Xhosa and English shall be the official languages of the Republic of Ciskei and shall enjoy equal recognition.

## III. DECLARATION OF FUNDAMENTAL RIGHTS

9. **Human Dignity and equality before the law.** - (1) All human beings are born free and equal in dignity and rights.

(2) Everyone shall be equal before the law.

(3) No one may because of sex, descent, race, language, origin or religious beliefs be favoured or prejudiced.

10. **Right of life.** - (1) Everyone has the right to life, liberty and security of person.

(2) No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

(2) Everyone has the right to peaceful association and no one may be compelled to belong to an association.

**16. Education and cultural life.** - (1) The system of education is protected by the state and the principle attaching to the establishment of private educational institutions is accepted.

(2) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

**17. Work and employment.** - Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment and unjust interference.

**18. Protection of property.** - (1) The right to own and possess private, communal and tribal property is protected.

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

**19. Restriction of rights and freedoms.** - (1) Everyone has responsibilities and duties to the community in which alone the free and full development of his personality is possible.

(2) The rights and freedoms conferred under the provisions of this declaration may be restricted by a law of the National Assembly with general application for reasons which are necessary in a free and 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 maintaining the authority and impartiality of the judiciary and for the social, moral and economic well-being of all the inhabitants of the state.

(3) No law made by the National Assembly or which continues in force in Ciskei under any provision of this constitution shall be declared invalid by any court of law by reason only of the fact that it contravenes or is in conflict with any provisions of this Chapter.

[Sub-s. (3) substituted by s. 12 of Act No. 7 of 1982]

**20 to 46 inclusive.**

[Ss.20 to 46 inclusive repealed by s.17 of Decree No. 33 of 1990]

**47. ....**

[S.47 repealed by s.54(1) of Act No. 19 of 1983]

**48 to 52 inclusive.**

[Ss.48 to 52 inclusive repealed by s.17 of Decree No. 33 of 1990]

## VII. THE JUDICATURE

**53. Establishment and constitution of Supreme Court.** - (1) There is hereby established a Supreme Court of Ciskei in which shall be vested the judicial power of the Republic and which shall consist of the Chief Justice and such number of other judges as may be determined by the President from time to time.

(2) The Supreme Court of Ciskei shall be a Court of record and shall have for its use a distinctive seal, with the design set out in Schedule 6 and which shall be in custody of the Registrar of the Court.

(3) The Supreme Court of Ciskei shall consist of a general division and an appellate division.

(4) Subject to the provisions of section 59, the seat of the Supreme Court of Ciskei shall be at Bisho.

[Sub-ss. (3) and (4) inserted by s. 1 of Part 1(A) of the Schedule to Act No. 2 of 1984]

**54. Jurisdiction of Supreme Court.** - Subject to the provisions of this Act and of any other law (including the common law) the Supreme Court of Ciskei shall have jurisdiction over all persons residing or being in the Republic of Ciskei and its process shall run, and its judgments and orders shall have force and effect, throughout the Republic of Ciskei.

[S. 54 substituted by s. 2 of Part 1(A) of the Schedule to Act 2 of 1984]

**55. Appointment and remuneration of judges.** - (1) Subject to the provisions of subsection (2) the President shall appoint under his hand and the seal of the Republic of Ciskei a Chief Justice and so many other judges of the Supreme Court of Ciskei, or a division thereof, as he may from time to time determine.

[Sub-s. (1) substituted by s. 3(a) of Part 1(A) of the Schedule to Act 2 of 1984]

(2) No person shall be appointed under subsection (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 or as a judge of a superior court in the Republic of South Africa or in such other country as the National Assembly may prescribe by resolution;

(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

(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 subsection (1) and (2), including any person who would so qualify but for his age: Provided that -

(a) the Minister of Justice 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 subsection (2)(a) shall be appointed to act as Chief Justice.

(4) (a) The remuneration and other conditions of service of the Chief Justice and judges of the Supreme Court shall be determined -

(i) as regards remuneration by the President; and

(ii) as regards conditions of service, including retirement ages and retirement benefits, by a law of the National Assembly in the case of the Chief Justice and the judges appointed under subsection (1) and by the President in the case of judges of the appellate division (other than the Chief Justice) and any judges appointed under subsection (3).

[Para. (a) substituted by s. 3(b) of Part 1(A) of the Schedule to Act 2 of 1984]

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

(5) The Chief Justice and every judge of the Supreme Court shall, before commencing to exercise the functions and duties of his office make and subscribe, before a judge of the Supreme Court or, if a judge is not available, before a person designated by the President, an oath substantially in the following form:

"I, A.B., do hereby swear that I will in the discharge of my office as judge of the Supreme Court of Ciskei uphold the Constitution and administer justice to all persons alike without fear, favour or prejudice in accordance with the laws of the land."

**56. Judge may not hold other office without permission.** - Unless authorised thereto by the President, the Chief Justice or 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 55(4).

**57. ....**

[S.57 repealed by s.17 of Decree No. 17 of 1990]

**58. Rules of court.** - (1) Subject to the provisions of subsection (2) the Chief Justice may make rules regulating the conduct of proceedings in the courts of the divisions of the Supreme Court of Ciskei and prescribing any matter whatsoever which it is necessary to prescribe in order to ensure the proper despatch and conduct of business of such courts, 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 the costs.

[Sub-s. (1) substituted by s. 4 of Part 1(A) of the Schedule to Act 2 of 1984]

(2) Any rules made by the Chief Justice under subsection (1) shall be subject to the approval of the President and any rules so approved shall be made known by notice in the *Gazette*.

**59. Circuit Courts.** - The Chief Justice may by notice in the *Gazette* -

(a) divide Ciskei into circuit districts and 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 general division or, as the case may be, a court of the general division of the Supreme Court shall sit in such circuit districts for the hearing of criminal cases.

[Para. (b) amended by s. 5 of Part 1(A) of the Schedule to Act 2 of 1984]

**60. Administration of justice.** - All administrative powers, functions and duties affecting the administration of justice shall be under the control of the Minister of Justice.

**61. ....**

[S. 61 repealed by Part 2 of the Schedule to Act No. 8 of 1989]

## VIII. FINANCE

**62. Revenues vest in President.** - All revenues and other moneys from any source whatever arising for the purpose of the administration of the Republic, shall vest in the President.

**63. Withdrawal of moneys from Revenue Fund in anticipation of formal appropriation.** - Subject to the provisions of this Act no moneys shall be withdrawn from the Revenue Fund except under appropriation: Provided that -

(a) until such appropriation has been made and for a period not exceeding three months after the end of a financial year, or

(b) if by reason of any dissolution of the National Assembly or the existence of other exceptional circumstances the making of an appropriation is likely to be delayed, for a period not exceeding seven months after the end of a financial year, moneys may be withdrawn from the Revenue Fund without such appropriation for the purpose of meeting expenditure on services in respect of which there has been an appropriation in the immediately preceding financial year or in respect of which there is other statutory authority.

**64. ....**

**65. ....**

[S. 64 and s. 65 repealed by s. 48(1) of Act No. 28 of 1985]

**66. Annual estimates.** - The annual estimates of revenue and expenditure for Ciskei shall be prepared by Accounting Officers to the Treasury and submitted to the President in Executive Council. Thereafter it shall be submitted by the Minister of Finance and Economic Development to the National Assembly for the purposes of appropriation.

## IX. CITIZENSHIP

**67. Acquisition and loss of citizenship.** - (1) Citizenship of Ciskei may be acquired on account of birth, descent and naturalisation on such conditions as shall be prescribed by act of the National Assembly.

(2) A person may voluntarily renounce his citizenship, or may forfeit his citizenship or be deprived thereof by the competent authority on such conditions and under such circumstances as shall be prescribed by act of the National Assembly.

## X. LAND AND TRIBAL MATTERS

**68. Vesting and use of certain land.** - All Government land owned at the commencement of this constitution or acquired at any time thereafter vests in the President who shall determine the future use thereof in consultation with the Executive Council.

**69. Duties, powers, authorities and functions of chiefs and headmen to remain.** - 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.

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s.70-72

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**70. Appointment of chiefs and headmen.** - (1) Subject to the provisions of subsection (2), the power to appoint the paramount chief or any chief or headman vests in the President in Executive Council.

(2) The creation of any new chieftainship shall be at the discretion of the President but shall not be confirmed by the President except after consideration of a recommendation by the Executive Council.

[S. 70 substituted by s. 7 of Act No. 8 of 1987]

**71. Saving.** - (1) The appointment in his office of every person who at the commencement of this Constitution is the paramount chief or a chief or headman (whether in a permanent or an acting capacity) shall be deemed to have been duly made by the President in Executive Council under section 70(1).

[S. 71 substituted by s. 8 of Act No. 8 of 1987]

(2) Notwithstanding anything in this Constitution contained, all powers, authorities and functions lawfully exercised by tribal and regional authorities in Ciskei immediately prior to the commencement of this Constitution shall remain in force until amended or withdrawn by the competent authority.

## XI. TRANSITIONAL AND GENERAL PROVISIONS

**72. Application of laws and vesting of rights etc.** - (1) Notwithstanding anything in Chapter III contained but subject otherwise to the provisions of this Constitution, there shall continue in operation and continue to apply except in so far as such laws are superseded by any applicable laws of Ciskei or are amended or repealed by the National Assembly in terms of this Constitution -

[Sub-s. (1) amended by s. 3(a) of Act No. 7 of 1982]

(a) any rule of law which immediately prior to the commencement of this Constitution was in operation in Ciskei; and

(b) any rule of law which, upon the addition of any land to Ciskei applies on or in respect of such land except that in relation to such additional land the laws of the Ciskei shall in cases of conflict take precedence:

Provided that the laws mentioned in Schedule 7 together with any amendments thereof in operation immediately prior to the commencement of this Constitution, shall apply throughout Ciskei or, as the case may be, to or in respect of all persons in Ciskei: Provided further that, until otherwise provided by the competent authority, the laws regulating the affairs of any Department of Posts and Telecommunications or any similar department established under section 34(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).

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

(3) Any reference in any law which continues to apply in Ciskei in terms of subsection (1) to -

(a) the Colony of the Cape of Good Hope, the Province of the Cape of Good Hope, the Union of South Africa or the Republic of South Africa, shall be construed as a reference to the Republic of Ciskei;

[Para. (a) amended by s. 3(b) of Act No. 7 of 1982]

(b) the Crown, the King, the Queen, the Governor-General, the Governors or Lieutenant-Governors or the State President, shall be construed as a reference to the Republic of Ciskei or the President as the circumstances may require;

(c) the King-in-Council, the Queen-in-Council, the Governor-General-in-Council or State President-in-Council, shall be construed as a reference to the President;

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(d) The Cabinet or the Cabinet of Ciskei shall be construed as a reference to the Executive Council of the Republic of Ciskei;

(e) the Administrator of the Province of the Cape of Good Hope, shall be construed as a reference to the President or to the responsible Minister, as the circumstances may require;

(f) the Supreme Court of South Africa or any division or judge (including the Chief Justice) thereof, shall be construed as a reference to the Supreme Court of Ciskei or the corresponding division or judge (including the Chief Justice) thereof having similar powers, authorities or functions in the Republic of Ciskei;

[Para. (f) substituted by s. 7 of Part 1(A) of Schedule to Act 2 of 1984]

(g) the *Official Gazette* or the *Official Gazette* of Ciskei 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 Ciskei.

(4) Subject to the provisions of this Constitution, the President may by proclamation in the *Gazette* make such orders or provisions as he may deem necessary -

(a) to ensure the effective application of any existing law;

(b) to determine the vesting and devolution of any powers, functions, duties, authorities, rights or obligations conferred, authorised, recognised, created or imposed by or under any existing law;

(c) to resolve any administrative difficulty arising from any of the foregoing provisions of this section or the application of the provisions of any existing law;

(d) to ensure the continuation of the administration and government in any area in Ciskei.

[Sub-s. (4) substituted by s. 9 of Act No. 8 of 1987]

**73. Official appointments.** - Any appointment made in any office by any authority under any law prior to the commencement of this Constitution, shall continue in force and be deemed to have been made by the corresponding authority in Ciskei.

**74. Provisions relating to High Court.** - (1) Notwithstanding the provisions of section 82(1), the High Court established under section 34 of the Black States 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 of Ciskei and to have been established and constituted as such by section 53(1).

[Sub-s. (1) amended by s. 4(a) of Act No. 7 of 1982]

(2) The rules which immediately prior to the commencement of this Constitution applied in respect of the High Court referred to in subsection (1) shall, notwithstanding the provisions of section 82(1), apply *mutatis mutandis* in respect of the Supreme Court of Ciskei and shall be deemed to have been duly made, approved and published in terms of section 58.

[Sub-s. (2) substituted by s. 4(b) of Act No. 7 of 1982]

(3) Any person who immediately prior to the commencement of this Constitution holds the office of Chief Justice, judge, Attorney-General or Deputy Attorney-General in the districts comprising Ciskei shall be deemed to have been appointed as Chief Justice, judge, Attorney-General or Deputy Attorney-General of Ciskei, as the case may be, by the competent authority in Ciskei.

**75. Advocates, attorneys, notaries and conveyancers.** - Until otherwise provided in an Act of the National Assembly, the laws regulating the admission or enrolment of persons to practise as advocates, attorneys, notaries or conveyancers of the Supreme Court of South Africa shall *mutatis mutandis* apply to the admission or enrolment of persons to practise as advocates, attorneys, notaries or conveyancers of the Supreme Court of Ciskei: Provided that, in the application of such laws, any reference therein to 'any division', a 'court' or 'the court' shall be construed as a reference to the general division or, as the case may be, a court of the general division of the Supreme Court of Ciskei.

[S. 75 substituted by s. 4(1), to be read with s. 4(2) and (3), of Act No. 21 of 1983 and amended by s. 8 of Part 1(A) of the Schedule to Act 2 of 1984]

**76. Provisions relating to existing courts.** - (1) Notwithstanding anything contained in section 82(1), but subject to the provisions of this Constitution -

(a) every court in existence in a district of Ciskei immediately prior to the commencement of this Constitution, other than a court constituted under section 10 of the Black 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 the National Assembly;

(b) the powers conferred upon any Commissioner in terms of section 9 of the said Black Administration Act, 1927, shall be exercised by a magistrate's court;

(c) the laws which immediately prior to the commencement of this Constitution applied to the High Court referred to in section 74(1) shall, subject to the provisions of this Act, apply *mutatis mutandis* to the Supreme Court of Ciskei provided that any reference in any such laws to the "Minister of Co-operation and Development" and "Secretary for Co-operation and Development" shall be construed as a reference to the Minister of Justice and the Secretary for Justice respectively;

(d) all proceedings pending immediately prior to the commencement of this Constitution -

(i) before a Commissioner under section 9, or in any court constituted under section 10 of the Black Administration Act, 1927, and in the aforesaid High Court, shall stand removed to the magistrate's court of the district and the Supreme Court of Ciskei respectively, which shall have jurisdiction to hear and determine the same;

(ii) in any court constituted or established under section 13 of the Black Administration Act, 1927, or section 10 of the Black Administration Act Amendment Act 1929 (Act 9 of 1929), shall be continued and decided as if this Constitution had not been passed: Provided that if any court established under the said section 13 of the Black Administration Act, 1927, or section 10 of the Black Administration Amendment Act, 1929, is convinced that any proceedings pending therein may be more conveniently or fitly heard or determined in the Supreme Court of Ciskei, it may order the same to be removed to the Supreme Court and thereupon the Supreme Court may continue with such proceedings as if they had been commenced therein;

(e) all judgments and orders of the said High Court or any other court (other than the Supreme Court) referred to in paragraph (a) or (d) shall have the same force and effect as if they had been given or made by the Supreme Court of Ciskei or, as the case may be, the court of corresponding jurisdiction in the Republic of Ciskei;

[Para. (e) amended by s. 5(a) of Act No. 7 of 1982]

(f) .....

[Para. (f) deleted by s. 9 of Part 1(A) of the Schedule to Act 2 of 1984]

(g) any process issued out of any court in the Republic of South Africa in relation to or for the enforcement of any judgement or order obtained in any proceedings commenced in such court at any time prior to the commencement of this Constitution and which, but for the provisions of this Constitution, would have been of force in any district or part of any district mentioned in Schedule 1 shall be of force throughout Ciskei and shall be served or executed by, as the case may be, the deputy sheriff or the messenger of the court appointed for the area in which such process is to be served or executed.

[Para. (g) added by s. 5(b) of Act No. 7 of 1982]

(2) In the application of subsection (1)(a) any appeal to a court of a Commissioner or a Commissioner in terms of section 12 or 20 of the Black Administration Act, 1927, shall lie to the magistrate's court or the corresponding judicial officer of such court in the district concerned, as the case may be, and any reference in the said sections 12 and 20 to a "court of a Commissioner" and "a Commissioner" shall be construed as a reference to a magistrate's court and to such judicial officer as aforesaid, respectively: Provided that, until an act of the National Assembly otherwise provides, any regulations made under sections 12 and 20 of the said Black Administration Act, 1927, shall apply *mutatis mutandis* in respect of any action taken under those sections in a magistrate's court or before a magistrate.

**77. Revenue Fund.** - (1) Notwithstanding the provisions of section 82(1), the Ciskeian Revenue Fund established by virtue of the provisions of section 6 of the Black States Constitution Act, 1971 (Act 21 of 1971), shall be continued, into which 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.



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(2) Any funds appropriated by the Ciskeian Legislative Assembly for the administration of the self-governing territory of Ciskei during the financial year ending 31 March 1982 shall, in respect of payment to be made on or after 4th December 1981, be deemed to have been appropriated by the National Assembly for the administration of the Republic.

**78. Affirmation instead of oath.** - Except for the President and Ministers and Deputy Ministers of State, any person 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.

[S. 78 substituted by s. 2 of Act No. 4 of 1985]

**79. Protection of certain emblems.** - (1) Any person who, without authority in writing granted on behalf of the President, uses in connection with his business, trade, profession or occupation or in connection with any mark or description applied by him to or placed by him on goods made, produced or sold by him -

(a) the coat of arms of the Republic of Ciskei or anything so closely resembling such coat of arms as to be likely to deceive,

(b) the style, title, name, portrait or effigy of the President, a Minister or Deputy Minister of State or the Chief Justice, or

(c) a reproduction of the national flag of the Republic of Ciskei or of any official residence of the President, a Minister or Deputy Minister of State or the Chief Justice, shall be guilty of an offence.

(2) Any person convicted of a contravention of any provision of subsection (1) shall be liable to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding twelve months and the court which convicts such person may, in addition, order the confiscation to the State of all or any part of the goods in respect of which the offence was committed.

[S. 79 substituted by s. 3 of Act No. 4 of 1985]

**80. ....**

[S. 80 repealed by s. 10 of Act No. 8 of 1987 w.e.f. 18 December 1981]

**81. Institution of continuation of legal proceedings.** - (1) All criminal proceedings shall be instituted in the name of the Republic of Ciskei and any criminal proceedings 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 Ciskei.

(2) Any civil proceedings by or against any Minister representing the Government of the self-governing territory of Ciskei which have not been concluded before the commencement of this Constitution or which although concluded may thereafter be reopened, may be continued against that Minister, representing the Government of the Republic of Ciskei.

**81A. Definitions.** - In this Constitution, unless the context otherwise indicates -

"chief" means a chief appointed or deemed to have been appointed under Chapter X and includes an acting chief;

"Chief Justice" means the Chief Justice of the Supreme Court appointed under section 55(1) and includes an acting Chief Justice;

"Ciskei" means the Republic of Ciskei;

"electoral division" means an electoral division referred to in section 37(2);

"Executive Council" means the Executive Council constituted in terms of section 33;

"judge" means a judge of the Supreme Court appointed under section 55(1);

"National Assembly" or "Assembly" means the National Assembly constituted as provided in section 37(1);

"President" means the person holding office as President under Chapter IV and includes an acting President;

"regional authority" means a regional authority as defined in section 1 of the Administrative Authorities Act, 1984 (Act 37 of 1984);

"Republic" means the Republic of Ciskei;

"Revenue Fund" means the Ciskeian Revenue Fund referred to in section 77(1);

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"Speaker" means the person elected as Speaker under section 45(1) and includes the Deputy Speaker;

"Supreme Court" means the Supreme Court of Ciskei established by section 53(1);

"the paramount chief" means the paramount chief of the Rharhabe and other cognate tribes of the Xhosa in Ciskei and includes an acting paramount chief.

[S. 81A inserted by s. 11 of Act No. 8 of 1987]

**82. Repeal of laws and savings.** - (1) The laws specified in Schedule 8 are hereby repealed to the extent set out in the third column of that Schedule: Provided that if any law is repealed in its entirety, all amendments thereto shall be deemed also to have been repealed.

(2) Notwithstanding the provisions of subsection (1) and until otherwise provided in an act of the National Assembly -

(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 be as prescribed in Proclamation No. R194 of 11 August 1972;

(b) the provisions of section 36 of the Black States Constitution Act, 1971 (Act 21 of 1971) shall, subject to the provisions of section 68 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 68.

(3) Nothing in this Constitution contained shall be construed as affecting any assets, rights, debts or liabilities of the former Government of the self-governing territory of Ciskei 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 the Republic subject to the conditions under which they were acquired or incurred and without prejudice to any claim which any creditor of such territory may have had against the government thereof.

(4) For the purposes of any law which, in terms of the first proviso to section 72(1), applies in the Republic (hereinafter in this section referred to as the applicable laws) anything done in pursuance of powers conferred on the competent authority by or under any provision of law repealed by subsection (1) shall be deemed to have been done in pursuance of powers conferred on such authority by or under the corresponding provision of the applicable laws.

**83. ....**

[S. 83 repealed by s.17 of Decree No. 33 of 1990]

## XII. REPEAL AND AMENDMENT OF THE CONSTITUTION

**84. ....**

[S. 84 repealed by s.17 of Decree No. 33 of 1990]

**85. Short title and commencement.** - This Act shall be called the Republic of Ciskei Constitution Act 1981, and shall notwithstanding anything to the contrary in this Constitution contained, come into operation on the fourth day of December nineteen hundred and eighty-one, after being signed by the Chairman of the Legislative Assembly.

**51. Signature and enrolment of laws.** - (1) A bill shall, subject to the provisions of section 50(4) become a law, upon being assented to by the President.

(2) The Secretary of the National Assembly shall cause to be enrolled of record in the office of the Registrar of the Supreme Court, in the language in which it was assented to by the President, a fair copy of every Act and such copy shall be conclusive evidence of the provisions of such Act.

[Sub-s. (2) substituted by s. 2 of Act No. 21 of 1983]

**52. Promulgation and commencement of law.** - (1) The Secretary of the National Assembly shall cause every law to be published in the *Gazette* in the official language in which it was assented to by the President and may cause it so to be published in the other official language.

[Sub-s. (1) substituted by s. 3 of Act No. 21 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 thereunder by proclamation of the President.

## VII. THE JUDICATURE

**53. Establishment and constitution of Supreme Court.** - (1) There is hereby established a Supreme Court of Ciskei in which shall be vested the judicial power of the Republic and which shall consist of the Chief Justice and such number of other judges as may be determined by the President from time to time.

(2) The Supreme Court of Ciskei shall be a Court of record and shall have for its use a distinctive seal, with the design set out in Schedule 6 and which shall be in custody of the Registrar of the Court.

(3) The Supreme Court of Ciskei shall consist of a general division and an appellate division.

(4) Subject to the provisions of section 59, the seat of the Supreme Court of Ciskei shall be at Bisho.

[Sub-ss. (3) and (4) inserted by s. 1 of Part 1(A) of the Schedule to Act No. 2 of 1984]

**54. Jurisdiction of Supreme Court.** - Subject to the provisions of this Act and of any other law (including the common law) the Supreme Court of Ciskei shall have jurisdiction over all persons residing or being in the Republic of Ciskei and its process shall run, and its judgments and orders shall have force and effect, throughout the Republic of Ciskei.

[S. 54 substituted by s. 2 of Part 1(A) of the Schedule to Act 2 of 1984]

**55. Appointment and remuneration of judges.** - (1) Subject to the provisions of subsection (2) the President shall appoint under his hand and the seal of the Republic of Ciskei a Chief Justice and so many other judges of the Supreme Court of Ciskei, or a division thereof, as he may from time to time determine.

[Sub-s. (1) substituted by s. 3(a) of Part 1(A) of the Schedule to Act 2 of 1984]

(2) No person shall be appointed under subsection (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 or as a judge of a superior court in the Republic of South Africa or in such other country as the National Assembly may prescribe by resolution;

(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

(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 subsection (1) and (2), including any person who would so qualify but for his age: Provided that -

(a) the Minister of Justice 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 subsection (2)(a) shall be appointed to act as Chief Justice.

(4) (a) The remuneration and other conditions of service of the Chief Justice and judges of the Supreme Court shall be determined -

(i) as regards remuneration by the President; and

(ii) as regards conditions of service, including retirement ages and retirement benefits, by a law of the National Assembly in the case of the Chief Justice and the judges appointed under subsection (1) and by the President in the case of judges of the appellate division (other than the Chief Justice) and any judges appointed under subsection (3).

[Para. (a) substituted by s. 3(b) of Part 1(A) of the Schedule to Act 2 of 1984]

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

(5) The Chief Justice and every judge of the Supreme Court shall, before commencing to exercise the functions and duties of his office make and subscribe, before a judge of the Supreme Court or, if a judge is not available, before a person designated by the President, an oath substantially in the following form:

"I, A.B., do hereby swear that I will in the discharge of my office as judge of the Supreme Court of Ciskei uphold the Constitution and administer justice to all persons alike without fear, favour or prejudice in accordance with the laws of the land."

**56. Judge may not hold other office without permission.** - Unless authorised thereto by the President, the Chief Justice or 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 55(4).

**57. Removal of judge from office.** - The Chief Justice or any other judge of the Supreme Court may be removed from office by the President: Provided that 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.

**58. Rules of court.** - (1) Subject to the provisions of subsection (2) the Chief Justice may make rules regulating the conduct of proceedings in the courts of the divisions of the Supreme Court of Ciskei and prescribing any matter whatsoever which it is necessary to prescribe in order to ensure the proper despatch and conduct of business of such courts, 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 the costs.

[Sub-s. (1) substituted by s. 4 of Part 1(A) of the Schedule to Act 2 of 1984]

(2) Any rules made by the Chief Justice under subsection (1) shall be subject to the approval of the President and any rules so approved shall be made known by notice in the *Gazette*.

**59. Circuit Courts.** - The Chief Justice may by notice in the *Gazette* -

(a) divide Ciskei into circuit districts and 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 general division or, as the case may be, a court of the general division of the Supreme Court shall sit in such circuit districts for the hearing of criminal cases.

[Para. (b) amended by s. 5 of Part 1(A) of the Schedule to Act 2 of 1984]

**60. Administration of justice.** - All administrative powers, functions and duties affecting the administration of justice shall be under the control of the Minister of Justice.

**61. ....**

[S. 61 repealed by Part 2 of the Schedule to Act No. 8 of 1989]

## VIII. FINANCE

**62. Revenues vest in President.** - All revenues and other moneys from any source whatever arising for the purpose of the administration of the Republic, shall vest in the President.

**63. Withdrawal of moneys from Revenue Fund in anticipation of formal appropriation.** - Subject to the provisions of this Act no moneys shall be withdrawn from the Revenue Fund except under appropriation: Provided that -

(a) until such appropriation has been made and for a period not exceeding three months after the end of a financial year, or

(b) if by reason of any dissolution of the National Assembly or the existence of other exceptional circumstances the making of an appropriation is likely to be delayed, for a period not exceeding seven months after the end of a financial year, moneys may be withdrawn from the Revenue Fund without such appropriation for the purpose of meeting expenditure on services in respect of which there has been an appropriation in the immediately preceding financial year or in respect of which there is other statutory authority.

64. ....

65. ....

[S. 64 and s. 65 repealed by s. 48(1) of Act No. 28 of 1985]

**66. Annual estimates.** - The annual estimates of revenue and expenditure for Ciskei shall be prepared by Accounting Officers to the Treasury and submitted to the President in Executive Council. Thereafter it shall be submitted by the Minister of Finance and Economic Development to the National Assembly for the purposes of appropriation.

## IX. CITIZENSHIP

**67. Acquisition and loss of citizenship.** - (1) Citizenship of Ciskei may be acquired on account of birth, descent and naturalisation on such conditions as shall be prescribed by act of the National Assembly.

(2) A person may voluntarily renounce his citizenship, or may forfeit his citizenship or be deprived thereof by the competent authority on such conditions and under such circumstances as shall be prescribed by act of the National Assembly.

## X. LAND AND TRIBAL MATTERS

**68. Vesting and use of certain land.** - All Government land owned at the commencement of this constitution or acquired at any time thereafter vests in the President who shall determine the future use thereof in consultation with the Executive Council.

**69. Duties, powers, authorities and functions of chiefs and headmen to remain.** - 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.

**70. Appointment of chiefs and headmen.** - (1) Subject to the provisions of subsection (2), the power to appoint the paramount chief or any chief or headman vests in the President in Executive Council.

(2) The creation of any new chieftainship shall be at the discretion of the President but shall not be confirmed by the President except after consideration of a recommendation by the Executive Council.

[S. 70 substituted by s. 7 of Act No. 8 of 1987]

**71. Saving.** - (1) The appointment in his office of every person who at the commencement of this Constitution is the paramount chief or a chief or headman (whether in a permanent or an acting capacity) shall be deemed to have been duly made by the President in Executive Council under section 70(1).

[S. 71 substituted by s. 8 of Act No. 8 of 1987]

(2) Notwithstanding anything in this Constitution contained, all powers, authorities and functions lawfully exercised by tribal and regional authorities in Ciskei immediately prior to the commencement of this Constitution shall remain in force until amended or withdrawn by the competent authority.

## XI. TRANSITIONAL AND GENERAL PROVISIONS

**72. Application of laws and vesting of rights etc.** - (1) Notwithstanding anything in Chapter III contained but subject otherwise to the provisions of this Constitution, there shall continue in operation and continue to apply except in so far as such laws are superseded by any applicable laws of Ciskei or are amended or repealed by the National Assembly in terms of this Constitution -

[Sub-s. (1) amended by s. 3 a) of Act No. 7 of 1982]

(a) any rule of law which immediately prior to the commencement of this Constitution was in operation in Ciskei; and

(b) any rule of law which, upon the addition of any land to Ciskei applies on or in respect of such land except that in relation to such additional land the laws of the Ciskei shall in cases of conflict take precedence;

Provided that the laws mentioned in Schedule 7 together with any amendments thereof in operation immediately prior to the commencement of this Constitution, shall apply throughout Ciskei or, as the case may be, to or in respect of all persons in Ciskei: Provided further that, until otherwise provided by the competent authority, the laws regulating the affairs of any Department of Posts and Telecommunications or any similar department established under section 34(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).

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

(3) Any reference in any law which continues to apply in Ciskei in terms of subsection (1) to -

(a) the Colony of the Cape of Good Hope, the Province of the Cape of Good Hope, the Union of South Africa or the Republic of South Africa, shall be construed as a reference to the Republic of Ciskei;

[Para. (a) amended by s. 3 b) of Act No. 7 of 1982]

(b) the Crown, the King, the Queen, the Governor-General, the Governors or Lieutenant-Governors or the State President, shall be construed as a reference to the Republic of Ciskei or the President as the circumstances may require;

(c) the King-in-Council, the Queen-in-Council, the Governor-General-in-Council or State President-in-Council, shall be construed as a reference to the President;

(d) The Cabinet or the Cabinet of Ciskei shall be construed as a reference to the Executive Council of the Republic of Ciskei;

(e) the Administrator of the Province of the Cape of Good Hope, shall be construed as a reference to the President or to the responsible Minister, as the circumstances may require;

(f) the Supreme Court of South Africa or any division or judge (including the Chief Justice) thereof, shall be construed as a reference to the Supreme Court of Ciskei or the corresponding division or judge (including the Chief Justice) thereof having similar powers, authorities or functions in the Republic of Ciskei;

[Para. (f) substituted by s. 7 of Part 1(A) of Schedule to Act 2 of 1984]

(g) the *Official Gazette* or the *Official Gazette* of Ciskei 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 Ciskei.

(4) Subject to the provisions of this Constitution, the President may by proclamation in the *Gazette* make such orders or provisions as he may deem necessary -

(a) to ensure the effective application of any existing law;

(b) to determine the vesting and devolution of any powers, functions, duties, authorities, rights or obligations conferred, authorised, recognised, created or imposed by or under any existing law;

(c) to resolve any administrative difficulty arising from any of the foregoing provisions of this section or the application of the provisions of any existing law;

(d) to ensure the continuation of the administration and government in any area in Ciskei.

[Sub-s. (4) substituted by s. 9 of Act No. 8 of 1987]

**73. Official appointments.** - Any appointment made in any office by any authority under any law prior to the commencement of this Constitution, shall continue in force and be deemed to have been made by the corresponding authority in Ciskei.

**74. Provisions relating to High Court.** - (1) Notwithstanding the provisions of section 82(1), the High Court established under section 34 of the Black States 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 of Ciskei and to have been established and constituted as such by section 53(1).

[Sub-s. (1) amended by s. 4(a) of Act No. 7 of 1982]

(2) The rules which immediately prior to the commencement of this Constitution applied in respect of the High Court referred to in subsection (1) shall, notwithstanding the provisions of section 82(1), apply *mutatis mutandis* in respect of the Supreme Court of Ciskei and shall be deemed to have been duly made, approved and published in terms of section 58.

[Sub-s. (2) substituted by s. 4(b) of Act No. 7 of 1982]

(3) Any person who immediately prior to the commencement of this Constitution holds the office of Chief Justice, judge, Attorney-General or Deputy Attorney-General in the districts comprising Ciskei shall be deemed to have been appointed as Chief Justice, judge, Attorney-General or Deputy Attorney-General of Ciskei, as the case may be, by the competent authority in Ciskei.

**75. Advocates, attorneys, notaries and conveyancers.** - Until otherwise provided in an Act of the National Assembly, the laws regulating the admission or enrolment of persons to practise as advocates, attorneys, notaries or conveyancers of the Supreme Court of South Africa shall *mutatis mutandis* apply to the admission or enrolment of persons to practise as advocates, attorneys, notaries or conveyancers of the Supreme Court of Ciskei: Provided that, in the application of such laws, any reference therein to 'any division', a 'court' or 'the court' shall be construed as a reference to the general division or, as the case may be, a court of the general division of the Supreme Court of Ciskei.

[S. 75 substituted by s. 4(1), to be read with s. 4(2) and (3), of Act No. 21 of 1983 and amended by s. 8 of Part 1(A) of the Schedule to Act 2 of 1984]

**76. Provisions relating to existing courts.** - (1) Notwithstanding anything contained in section 82(1), but subject to the provisions of this Constitution -

(a) every court in existence in a district of Ciskei immediately prior to the commencement of this Constitution, other than a court constituted under section 10 of the Black 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 the National Assembly;

(b) the powers conferred upon any Commissioner in terms of section 9 of the said Black Administration Act, 1927, shall be exercised by a magistrate's court;

(c) the laws which immediately prior to the commencement of this Constitution applied to the High Court referred to in section 74(1) shall, subject to the provisions of this Act, apply *mutatis mutandis* to the Supreme Court of Ciskei provided that any reference in any such laws to the "Minister of Co-operation and Development" and "Secretary for Co-operation and Development" shall be construed as a reference to the Minister of Justice and the Secretary for Justice respectively;

(d) all proceedings pending immediately prior to the commencement of this Constitution -

(i) before a Commissioner under section 9, or in any court constituted under section 10 of the Black Administration Act, 1927, and in the aforesaid High Court, shall stand removed to the magistrate's court of the district and the Supreme Court of Ciskei respectively, which shall have jurisdiction to hear and determine the same;

(ii) in any court constituted or established under section 13 of the Black Administration Act, 1927, or section 10 of the Black Administration Act Amendment Act 1929 (Act 9 of 1929), shall be continued and decided as if this Constitution had not been passed: Provided that if any court established under the said section 13 of the Black Administration Act, 1927, or section 10 of the Black Administration Amendment Act, 1929, is convinced that any proceedings pending therein may be more conveniently or fitly heard or determined in the Supreme Court of Ciskei, it may order the same to be removed to the Supreme Court and thereupon the Supreme Court may continue with such proceedings as if they had been commenced therein;

(e) all judgments and orders of the said High Court or any other court (other than the Supreme Court) referred to in paragraph (a) or (d) shall have the same force and effect as if they had been given or made by the Supreme Court of Ciskei or, as the case may be, the court of corresponding jurisdiction in the Republic of Ciskei;

[Para. (e) amended by s. 5(a) of Act No. 7 of 1982]

(f) .....

[Para. (f) deleted by s. 9 of Part 1(A) of the Schedule to Act 2 of 1984]

(g) any process issued out of any court in the Republic of South Africa in relation to or for the enforcement of any judgement or order obtained in any proceedings commenced in such court at any time prior to the commencement of this Constitution and which, but for the provisions of this Constitution, would have been of force in any district or part of any district mentioned in Schedule 1 shall be of force throughout Ciskei and shall be served or executed by, as the case may be, the deputy sheriff or the messenger of the court appointed for the area in which such process is to be served or executed.

[Para. (g) added by s. 5(b) of Act No. 7 of 1982]

(2) In the application of subsection (1)(a) any appeal to a court of a Commissioner or a Commissioner in terms of section 12 or 20 of the Black Administration Act, 1927, shall lie to the magistrate's court or the corresponding judicial officer of such court in the district concerned, as the case may be, and any reference in the said sections 12 and 20 to a "court of a Commissioner" and "a Commissioner" shall be construed as a reference to a magistrate's court and to such judicial officer as aforesaid, respectively: Provided that, until an act of the National Assembly otherwise provides, any regulations made under sections 12 and 20 of the said Black Administration Act, 1927, shall apply *mutatis mutandis* in respect of any action taken under those sections in a magistrate's court or before a magistrate.

**77. Revenue Fund.** - (1) Notwithstanding the provisions of section 82(1), the Ciskeian Revenue Fund established by virtue of the provisions of section 6 of the Black States Constitution Act, 1971 (Act 21 of 1971), shall be continued, into which 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.



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*Republic of Ciskei Constitution Act, No. 20 of 1981*

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(2) Any funds appropriated by the Ciskeian Legislative Assembly for the administration of the self-governing territory of Ciskei during the financial year ending 31 March 1982 shall, in respect of payment to be made on or after 4th December 1981, be deemed to have been appropriated by the National Assembly for the administration of the Republic.

**78. Affirmation instead of oath.** - Except for the President and Ministers and Deputy Ministers of State, any person 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.

[S. 78 substituted by s. 2 of Act No. 4 of 1985]

**79. Protection of certain emblems.** - (1) Any person who, without authority in writing granted on behalf of the President, uses in connection with his business, trade, profession or occupation or in connection with any mark or description applied by him to or placed by him on goods made, produced or sold by him -

(a) the coat of arms of the Republic of Ciskei or anything so closely resembling such coat of arms as to be likely to deceive,

(b) the style, title, name, portrait or effigy of the President, a Minister or Deputy Minister of State or the Chief Justice, or

(c) a reproduction of the national flag of the Republic of Ciskei or of any official residence of the President, a Minister or Deputy Minister of State or the Chief Justice, shall be guilty of an offence.

(2) Any person convicted of a contravention of any provision of subsection (1) shall be liable to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding twelve months and the court which convicts such person may, in addition, order the confiscation to the State of all or any part of the goods in respect of which the offence was committed.

[S. 79 substituted by s. 3 of Act No. 4 of 1985]

**80. ....**

[S. 80 repealed by s. 10 of Act No. 8 of 1987 w.e.f. 18 December 1981]

**81. Institution of continuation of legal proceedings.** - (1) All criminal proceedings shall be instituted in the name of the Republic of Ciskei and any criminal proceedings 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 Ciskei.

(2) Any civil proceedings by or against any Minister representing the Government of the self-governing territory of Ciskei which have not been concluded before the commencement of this Constitution or which although concluded may thereafter be reopened, may be continued against that Minister, representing the Government of the Republic of Ciskei.

**81A. Definitions.** - In this Constitution, unless the context otherwise indicates -

"chief" means a chief appointed or deemed to have been appointed under Chapter X and includes an acting chief;

"Chief Justice" means the Chief Justice of the Supreme Court appointed under section 55(1) and includes an acting Chief Justice;

"Ciskei" means the Republic of Ciskei;

"electoral division" means an electoral division referred to in section 37(2);

"Executive Council" means the Executive Council constituted in terms of section 33;

"judge" means a judge of the Supreme Court appointed under section 55(1);

"National Assembly" or "Assembly" means the National Assembly constituted as provided in section 37(1);

"President" means the person holding office as President under Chapter IV and includes an acting President;

"regional authority" means a regional authority as defined in section 1 of the Administrative Authorities Act, 1984 (Act 37 of 1984);

"Republic" means the Republic of Ciskei;

"Revenue Fund" means the Ciskeian Revenue Fund referred to in section 77(1);

**"Speaker"** means the person elected as Speaker under section 45(1) and includes the Deputy Speaker;

**"Supreme Court"** means the Supreme Court of Ciskei established by section 53(1);

**"the paramount chief"** means the paramount chief of the Rharhabe and other cognate tribes of the Xhosa in Ciskei and includes an acting paramount chief.

[S. 81A inserted by s. 11 of Act No. 8 of 1987]

**82. Repeal of laws and savings.** - (1) The laws specified in Schedule 8 are hereby repealed to the extent set out in the third column of that Schedule: Provided that if any law is repealed in its entirety, all amendments thereto shall be deemed also to have been repealed.

(2) Notwithstanding the provisions of subsection (1) and until otherwise provided in an act of the National Assembly -

(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 be as prescribed in Proclamation No. R194 of 11 August 1972;

(b) the provisions of section 36 of the Black States Constitution Act, 1971 (Act 21 of 1971) shall, subject to the provisions of section 68 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 68.

(3) Nothing in this Constitution contained shall be construed as affecting any assets, rights, debts or liabilities of the former Government of the self-governing territory of Ciskei 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 the Republic subject to the conditions under which they were acquired or incurred and without prejudice to any claim which any creditor of such territory may have had against the government thereof.

(4) For the purposes of any law which, in terms of the first proviso to section 72(1), applies in the Republic (hereinafter in this section referred to as the applicable laws) anything done in pursuance of powers conferred on the competent authority by or under any provision of law repealed by subsection (1) shall be deemed to have been done in pursuance of powers conferred on such authority by or under the corresponding provision of the applicable laws.

**83. Legislative Assembly deemed to be National Assembly.** - (1) Any person who is a member of the Ciskeian Legislative Assembly immediately prior to the commencement of this Constitution shall be a member of the National Assembly at the commencement of this Constitution and shall remain such member until the said Assembly is constituted in accordance with the provisions of this Constitution or until he otherwise becomes disqualified in terms of this Constitution from being such member.

(2) Notwithstanding the provisions of section 37, the National Assembly as constituted in terms of subsection (1) shall be deemed to be properly constituted in accordance with the provisions of the Constitution.

## XII. REPEAL AND AMENDMENT OF THE CONSTITUTION

**84. Repeal and amendment of the Constitution.** - (1) The National Assembly may repeal or amend any provisions excluding the provisions of Chapter XI of this Constitution with a two-thirds majority of the total number of members of the National Assembly who are entitled to vote.

(2) Except for Schedules 1, 7 and 8 which the President may amend by proclamation in the *Gazette*, all the other Schedules to this Constitution shall be repealed or amended in the manner provided for in subsection (1).

**85. Short title and commencement.** - This Act shall be called the Republic of Ciskei Constitution Act 1981, and shall notwithstanding anything to the contrary in this Constitution contained, come into operation on the fourth day of December nineteen hundred and eighty-one, after being signed by the Chairman of the Legislative Assembly.

## SCHEDULES

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SCHEDULE 1:	Districts of the Ciskei ( <i>section 1(1)</i> )
SCHEDULE 2:	Seal of the Republic of Ciskei ( <i>section 4(1)</i> )
SCHEDULE 3:	National flag of the Republic of Ciskei ( <i>section 5</i> )
SCHEDULE 4:	Coat of Arms of the Republic of Ciskei ( <i>section 6</i> )
SCHEDULE 5:	National Anthem of the Republic of Ciskei ( <i>section 7</i> )
SCHEDULE 6:	Seal of the Supreme Court of Ciskei ( <i>section 53(2)</i> )
SCHEDULE 7:	Laws that shall apply in Ciskei after independence ( <i>section 72(1)</i> )
SCHEDULE 8:	Laws repealed at independence ( <i>section 82(1)</i> )

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### SCHEDULE 1

#### AREA COMPRISING CISKEI

The districts of Hewu, Keiskammahoek, Mdantsane, Middledrift, Mpofu, Peddie, Victoria East and Zwelitsha, together with the seashore and territorial waters thereof.

For the purpose of this Schedule 'territorial waters' means the territorial waters of the Republic of Ciskei defined and determined in accordance with the provisions of the Territorial Waters Act, 1986 including, within the meaning and for the objects of that Act, the exclusive economic zone and the continental shelf.

[Schedule 1 amended by Proclamation No. 8 of 1984, substituted by Proclamation No. 17 of 1984 and amended by s. 6 of Act No. 12 of 1986]

**SCHEDULE 2**

DESIGN OF SEAL OF THE REPUBLIC OF CISKEI - The Seal of the Republic of Ciskei shall be in the form of a circle in which shall appear the coat-of-arms of the Republic of Ciskei surrounded by a larger circle containing the words -

**IRIPHABLIKI YE CISKEI**



## SCHEDULE 3

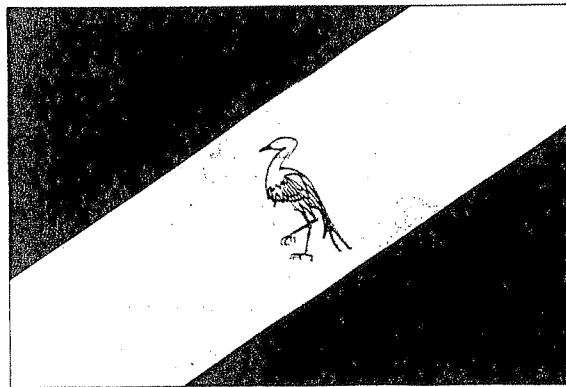
## NATIONAL FLAG OF THE REPUBLIC OF CISKEI

A blue flag with a bend sinister of white, over all a Blue Crane proper edged white.

The width of the flag shall be equal to two-thirds of its length.

The width of the bend sinister shall be one-sixth of the length of the flag.

The height of the Blue Crane shall be one-third of the width of the flag.



## SCHEDULE 4

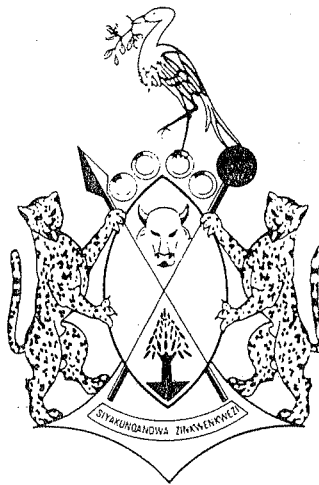
## COAT OF ARMS OF THE REPUBLIC OF CISKEI

A coat-of-arms as follows:-

Per saltire Or and gules, in chief an ox's head caboshed proper and in base a tree proper, the whole ensigned with four annulets, ivory, fess-wise proper, issuant therefrom a crane passant, azure, holding in the beak a twig with leaves, vert, the whole in front of a knobbed stick and spear in saltire, sable.

Supporters: Two leopards rampant gardant proper on a field vert with an escroll OR with letters sable.

Motto: SIYAKUNQANDWA ZIINKWENKWEZI



## SCHEDULE 5

## NATIONAL ANTHEM OF THE CISKEI

"Nkosi Sikelel' iAfrika" is a revered African anthem composed in 1897 by Enoch Sontonga, a gifted Xhosa teacher at a Methodist mission school on the Witwatersrand. It was first sung in 1899, the year in which the Anglo-Boer War started. The occasion was the induction of a minister in Nancefield near Johannesburg. Later the renowned Xhosa poet, S E Mqayi, wrote seven more stanzas and the full text was published for the first time in 1927. Two years later it was included on the Presbyterian Xhosa hymnal.

## GOD BLESS AFRICA — NKOSI SIKELEL' IAFRIKA

Lord, bless Africa;  
May her spirit rise high up;  
Hear Thou our prayers  
And bless us.  
Chorus: Descend, O Spirit,  
Descend, O Holy Spirit

Bless the public men,  
Bless also the youth  
That they may carry the  
land with patience  
And that Thou mayst bless them.

Bless the ministers  
Of all churches of this land;  
Endue them with Thy Spirit  
And bless them.

Bless agriculture and stockraising;  
Banish all famine and diseases;  
Fill the land with good health  
And bless it.

Bless our chief,  
May they remember their Creator  
Fear Him and revere Him,  
That He may bless them.

Bless the wives  
And also all young women;  
Lift up the young girls  
And bless them.

Bless our efforts  
Of union and self-uplift,  
Of education and mutual  
understanding  
And bless them.

Lord, bless Africa  
Blot out all its wickedness  
And its transgressions and sins,  
And bless it.

Nkosi, sikelel' iAfrika;  
Malupakam' upondo lwayo;  
Yiva imitandazo yetu  
usisikelele.  
Yihla Moya, Yihla Moya,  
Yihla Moya Oyingewe

Sikelel' amandol'esizwe,  
Sikelela kwa nomlisela  
Ulitwal'ilizwe ngomonde,  
Uwusikelele.

Sikelela abafundisi  
Bemvaba zonke zelizwe;  
Ubatwese ngoMoya Wako  
Ubasikelele.

Sikelel'ulimo nemfuyo;  
Gxota zonk'indlala nezifo;  
Zalisa ilizwe ngempilo  
Ulisikelele.

Sikelela iNkosi zetu;  
Zimkumbule umDali wazo;  
Zimoyike zezimhlonele,  
Azisikelele.

Sikelel'amakosikazi  
Nawe onk'amanenekazi;  
Pakamisa wonk'umjinyana  
Uwusikelele.

Sikelel'amalinga etu  
Awonanyana nokuzaka,  
Awemfundo nemvisisiswano  
Uwasikelele.

Nkosi Sikelel' iAfrika;  
Cima bonk'ubugwenxa bayo  
Nexigqito nezono zayo  
Uyisikelele.

**SCHEDULE 6****DESIGN OF SEAL OF SUPREME COURT OF CISKEI**

The Seal of The Supreme Court of Ciskei shall be in the form of a circle in which shall appear the coat-of-arms of the Republic of Ciskei surrounded by a larger circle containing the words:-

**"INKUNDLA EPHAKAMILEYO**

**SUPREME COURT HOOGGEREGSHOF**

**CISKEI"**



## SCHEDULE 7

## LAWS REFERRED TO IN FIRST PROVISIO TO SECTION 72(1)

No. and Year of Law	Title
Act 9 of 1927	Land Survey Act, 1927
Act 16 of 1933	Veterinary Act, 1933
Act 24 of 1936	Insolvency Act, 1936
Act 21 of 1940	Advertising on Roads and Ribbon Development Act, 1940
Act 36 of 1947	Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947
Act 51 of 1951	Public Accountants and Auditors Act, 1951
Act 37 of 1953	Matrimonial Affairs Act, 1953
Act 23 of 1955	Second-hand Goods Act, 1955
Act 13 of 1956	Animal Diseases and Parasites Act, 1956
Act 54 of 1956	Water Act, 1956
Act 40 of 1958	Electricity Act, 1958
Act 57 of 1959	Stock Theft Act, 1959
Act 27 of 1960	Business Names Act, 1960
Act 33 of 1960	Children's Act, 1960
Act 25 of 1961	Marriage Act, 1961
Act 31 of 1963	Fencing Act, 1963
Act 62 of 1963	Trade Marks Act, 1963
Act 81 of 1963	Births, Marriages and Deaths Registration Act, 1963
Act 34 of 1964	Bills of Exchange Act, 1964
Act 42 of 1965	Arbitration Act, 1965
Act 45 of 1965	Atmospheric Pollution Prevention Act, 1965
Act 66 of 1965	Administration of Estates Act, 1965
Act 101 of 1965	Medicines and Related Substances Control Act, 1965
Act 72 of 1967	Medical Schemes Act, 1967
Act 87 of 1967	Animal Slaughter, Meat and Animal Products Hygiene Act, 1967
Act 73 of 1968	Limitation and Disclosure of Finance Charges Act, 1968
Act 24 of 1970	Anatomical Donations and Post-Mortem Examinations Act, 1970
Act 35 of 1970	Architects' Act, 1970
Act 36 of 1970	Quantity Surveyors' Act, 1970
Act 61 of 1970	Egg Production Control Act, 1970
Act 70 of 1970	Subdivision of Agricultural Land Act, 1970
Act 41 of 1971	Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971
Act 76 of 1971	Chiropractors' Act, 1971
Act 54 of 1972	Foodstuffs, Cosmetics and Disinfectants Act, 1972
Act 3 of 1973	Agricultural Pests Act, 1973
Act 5 of 1973	Ciskeian Agricultural Development Act, 1973
Act 7 of 1973	Ciskeian Apprenticeship Act, 1973
Act 15 of 1973	Hazardous Substances Act, 1973
Act 18 of 1973	Mental Health Act, 1973
Act 74 of 1973	Companies Act, 1973
Act 6 of 1974	Ciskeian Education Act, 1974

## SCHEDULE 7 (continued)

No. and Year of Law	Title
Act 52 of 1974	Homeopaths, Osteopaths and Herbalists Act, 1974
Act 2 of 1975	Abortion and Sterilization Act, 1975
Act 12 of 1975	Agricultural Produce Agency Sales Act, 1975
Act 55 of 1975	Prescribed Rate of Interest Act, 1975
Act 4 of 1976	Ciskeian Forestry Act, 1976
Act 9 of 1976	Ciskeian Social Pensions Act, 1976
Act 15 of 1976	Plant Breeders' Rights Act, 1976
Act 53 of 1976	Plant Improvement Act, 1976
Act 76 of 1976	Trade Practices Act, 1976
Act 80 of 1976	Rent Control Act, 1976
Act 112 of 1976	Estate Agents Act, 1976
Act 2 of 1977	Abolition of Civil Imprisonment Act, 1977
Act 10 of 1977	Ciskeian Road Traffic Act, 1977
Act 6 of 1978	Ciskeian Development Tax Act, 1978
Act 7 of 1978	Ciskeian Nursing Association Act, 1978
Act 15 of 1978	Ciskeian Agricultural Promotion Loan Fund Act, 1978
Act 16 of 1978	Ciskeian Road Transportation Act 1978
Act 57 of 1978	Patents Act, 1978
Act 98 of 1978	Copyright Act, 1978
Act 9 of 1979	Ciskeian Co-operative Societies Act 1979
Act 9 of 1979	Dental Technicians Act, 1979
Act 70 of 1979	Divorce Act, 1979
Act 76 of 1979	Slums act, 1979
Act 19 of 1980	Ciskeian Library Service Act, 1980
Act 20 of 1980	Ciskeian Horse Racing and Betting Act, 1980
Act 59 of 1980	Share Blocks Control Act, 1980
Act 75 of 1980	Credit Agreements Act, 1980
Act 7 of 1981	Ciskeian Marketing and Agricultural Promotion Act, 1981
Act 15 of 1981	Ciskeian Registration of Persons Act, 1981
Act 16 of 1981	Ciskeian Corporations Act, 1981
Act 68 of 1981	Alienation of Land Act, 1981

[Schedule amended by s. 6 of Act No. 7 of 1982 and by s. 56(1)(a) of Act No. 24 of 1986]

## SCHEDULE 8

## LAWS REPEALED

No. and Year of Law	Title	Extent of Repeal
Act 38 of 1927	Black Administration Act, 1927	Sections 1,2,9,10,11, 13,14,15,16,17,18,19, 22,ter,24,25,26, and 31
Act 9 of 1929	Black Administration Act, 1927 Amendment Act, 1929	Sections 2,3,8 and 10
Act 27 of 1951	Black Building Workers Act, 1951	The whole
Act 68 of 1951	Black Authorities Act, 1951	So much as is unrepealed
Act 49 of 1953	Reservation of Separate Amenities Act, 1953	The whole
Act 45 of 1955	Estate Duty Act, 1955	The whole
Act 46 of 1959	Promotion of Black Self-Government Act, 1959	The whole
Act 55 of 1959	Black Affairs Act, 1959	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 47 of 1963	Coloured Persons Education Act, 1963	The whole
Act 49 of 1964	Coloured Persons Representative Council Act, 1964	The whole
Act 36 of 1966	Group Areas Act, 1966	The whole
Act 51 of 1968	Prohibition of Political Interference Act, 1968	The whole
Act 26 of 1970	National States Citizenship Act, 1970	The whole
Act 21 of 1971	National States Constitution Act, 1971	The whole
Act 5 of 1977	Ciskeian Flag Act, 1977	The whole
Act 14 of 1979	Ciskeian Abuse of Dependence-producing substances and Rehabilitation Centres Amendment Act, 1979	The whole
Act 45 of 1979	Electoral Act, 1979	The whole
Act 11 of 1980	Ciskeian Divorce Act, 1980	The whole
Act 9 of 1981	Ciskeian General Law Amendment Act, 1981	Section 1
Ordinance 23 of 1930	Entertainment Duty Ordinance, 1930	The whole
Ordinance 12 of 1980	Exhumations Ordinance, 1980	The whole
Proclamation R.272 of 1968		The whole
Proclamation R.118 of 1971		The whole
Proclamation R.51 of 1972		The whole
Proclamation R.52 of 1972		The whole
Proclamation R.187 of 1972		The whole