

# Statute Law of the Transvaal

## 1839—1910

(IN FORCE ON 31ST MAY, 1910)

Vol. III

1907—1910

(RESPONSIBLE GOVERNMENT)

AND

INDEX

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## PREFACE

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THIS volume contains the Acts passed during the period of Responsible Government of the Transvaal, 1907–1910. Reference is made to all regulations, etc., passed under these Acts up to 31st May, 1910, the date of Union.

The South Africa Act is added, in Dutch and English, in an Appendix, which also contains Ordinances 50 and 54 of 1903, 31 of 1905, and 11 of 1906. These Ordinances have all been repealed by Act 32 of 1909, which Act, however, although amended by Act 8 of 1910, has with the latter not yet been put in force.

The Index appended covers the volumes I, II, and III. The pages of these volumes are given on the top of each page of the Index, to facilitate reference.

CARL JEPPE.

J. H. GEY VAN PITTIUS.

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ERRATA

P. 2531, sec. 182 (3), last word, read "intents" instead of "intends".

P. 2677, sec. 7 (1) (c), third line, read "drainage" instead of "dainage".

# STATUTE LAW OF THE TRANSVAAL.

1907.

## LETTERS PATENT

*Passed under the Great Seal of the United Kingdom, providing for the Constitution of Responsible Government in the Colony of the Transvaal.*

Dated 6th December, 1906.

EDWARD THE SEVENTH by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India. To all to whom these Presents shall come, Greeting.

*Recites Letters Patent of the 23rd September, 1902.*

Whereas by Our Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster, the 23rd day of September, 1902, We did constitute the office of Governor and Commander-in-Chief (hereinafter called "the Governor") of Our Colony of the Transvaal (hereinafter called "the Colony"), and did make provision for a Legislative Council in and for the said Colony;

*Recites Letters Patent of the 31st March, 1905.*

And whereas by certain other Our Letters Patent bearing date the 31st day of March, 1905, We did make provision for the representation of the people of the Colony in the Legislature thereof by elected Members;

And whereas We think fit to provide for the establishment of Responsible Government in the Colony:

Now know you that We do declare Our will and pleasure to be as follows:—

### THE LEGISLATURE.

I. In place of the Legislative Council now subsisting there shall be a Legislature consisting of a Legislative Council and Legislative Assembly, constituted as hereinafter provided.

The constitution, appointment, and powers of the Legislative Council now subsisting shall continue in force until the date of the nomination of Members for election to the Legislative Assembly and no longer.

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And whereas by certain other Our Letters Patent bearing date the 31st day of March, 1905, We did make provision for the representation of the people of the Colony in the Legislature thereof by elected Members;

And whereas We think fit to provide for the establishment of Responsible Government in the Colony:

Now know you that We do declare Our will and pleasure to be as follows:—

### THE LEGISLATURE.

I. In place of the Legislative Council now subsisting there shall be a Legislature consisting of a Legislative Council and Legislative Assembly, constituted as hereinafter provided.

The constitution, appointment, and powers of the Legislative Council now subsisting shall continue in force until the date of the nomination of Members for election to the Legislative Assembly and no longer.

## LEGISLATIVE COUNCIL.

*Constitution.*

II. The Legislative Council shall consist of fifteen Members who shall be summoned in the case of the first Council by the Governor, and if any vacancy shall occur in the said first or in any subsequent Council a Member shall be appointed to fill the said vacancy by the Governor in Council until the completion of the period for which the person in whose place he is appointed would have held office. Members of the Council shall be appointed in Our name by instruments under the Public Seal of the Colony.

*Qualification for Membership.*

III. No person shall be summoned unless he shall be of the age of thirty years or upwards, nor unless he shall have resided in the Colony for three years, nor unless he shall be qualified to be registered as a voter for some electoral division of the Colony.

*Resignation of Members.*

IV. Any Member of the Legislative Council may resign his seat therein, by writing under his hand addressed to the Governor; and upon the receipt of such resignation by the Governor the seat of such Member shall become vacant.

*President of Council.*

V. (1) The Governor in Council may appoint one Member of the Legislative Council to be President thereof, and may remove him and appoint another in his stead; and the President may at any time take part in any debate or discussion in the said Council.

(2) In the absence of the President some Member elected by the Legislative Council shall preside.

*Quorum.*

VI. The Legislative Council shall not be competent to proceed to the despatch of business unless six Members shall be present.

*Provision for Establishment of Elective Legislative Council.*

VII. (1) The Members of the first Legislative Council shall hold office for five years, unless before that time a law shall have come into effect providing for the election of Members of the Legislative Council.

(2) If no such law shall have come into effect, then, on the expiration of the said period of five years a fresh Legislative Council shall be summoned by the Governor in Council, and so in like manner every five years until such law shall have come into effect.

(3) It shall be lawful at any time, after four years from the date of the first meeting of the Council, for the Legislature to pass a law providing for the election of Members of the

Legislative Council, and thereupon, subject to the provisions of such law, the then existing Legislative Council shall be dissolved; and thereafter all Members of the Legislative Council shall be elected, and shall possess such qualifications, and shall be elected in such manner, by such persons, and for such periods as may have been prescribed by the said law.

### LEGISLATIVE ASSEMBLY.

#### *Constitution.*

VIII. The Legislative Assembly shall, save as hereinafter provided, consist of sixty-nine Members, who shall be elected by the voters in the electoral divisions defined and named by the Commissioners appointed by the Governor under Transvaal Government Notice No. 788 of 1906 and published in the *Gazette* and in accordance with the instructions to them contained in Transvaal Government Notice No. 979 of 1906, which are set forth in the First Schedule to these Our Letters Patent.

\*A list of the electoral divisions when defined and named as aforesaid, shall be proclaimed by the Governor in the *Gazette*, and each such division shall return one Member of the Legislative Assembly.

#### *Qualification of Voters.*

IX. (1) Every white male British subject of the age of twenty-one years and upwards, who is not subject to any of the disqualifications hereinafter mentioned, shall be entitled to be registered as a voter and when so registered to vote at any election of Members of the Legislative Assembly.

(2) Provided that no person on full pay belonging to Our regular forces maintained by annual vote of the Parliament of Our United Kingdom shall be entitled to be registered as a voter or to vote.

#### *Persons Disqualified as Voters.*

X. No person shall be entitled to be registered as a voter on any register of voters—

(1) (a) Unless he has resided in the Transvaal for a period of not less than six months next before the commencement (as declared by proclamation of the Governor) of the framing of a general register of voters and—

(b) Is at the said date *bona fide* residing in the electoral division for which he claims to be registered.

(c) Provided that any person who within three years next before the commencement of the framing of a general register of voters has resided in the Colony for not less than six months, but who has been temporarily absent during the six months next before that date, shall be entitled to be so registered notwithstanding such absence on proof being given by him or on his behalf, to the registering officer that his absence was temporary.

\* For list of electoral divisions and boundaries of same see Proclamation No. 13, Admn., 1907.



(2) ~~If he has been by any of Our Courts~~

(a) Convicted since the 31st day of May, 1902, of treason or at any time of murder unless he shall have obtained a free pardon.

(b) Convicted at any time of any offence and sentenced to imprisonment without the option of a fine, which imprisonment shall not have expired at least three years before the date of the commencement of the framing of such register.

(3) If he has been within six months of the commencement of the framing of such register in receipt of relief from public funds in the Colony not being relief by way of repatriation under Article X of the Terms of Peace of the 31st May, 1902;

Provided that treatment without payment therefor in any hospital supported wholly or partly out of public funds ~~shall not be regarded as relief from public funds.~~

#### *First Elections.*

XI. (1) For the purpose of the first election of Members of the Legislative Assembly, to be held under the provisions of these Our Letters Patent, and of every subsequent election until such time as there shall be a fresh register of voters framed as hereinafter prescribed, the voters shall be the persons (other than persons on full pay belonging to Our regular forces maintained by annual vote of the Parliament of Our United Kingdom) whose names appear on the list framed under the provisions of the Order in Our Privy Council known as "The Transvaal Constitution Order in Council, 1906."

#### *List of Voters for each Division.*

(2) The Governor shall, as soon as practicable, cause to be compiled from the said list a list of the voters resident in each electoral division of the Colony at the date of the commencement of the framing of the aforesaid first mentioned list, and the list so compiled shall be the register of voters for such division until a new register is made as hereinafter prescribed.

#### *Registration of Voters, etc.*

XII. Subject to the provisions of the last preceding section, the registration of voters, the preparation of lists of voters, the conduct of elections, and the hearing of election petitions, shall be carried out in accordance with the regulations prescribed in the Second Schedule to these Our Letters Patent.

#### *Biennial Registration of Voters.*

XIII. There shall be a biennial registration of voters in every electoral division commenced not later than the last day of December in the year next but one after the commencement of the last preceding registration, and so on during each successive biennial period. The first biennial registration shall be commenced not later than the last day of December, 1908.

*Redivision of the Colony into Electoral Divisions.*

XIV. Upon the completion of the voters' lists made in pursuance of the second biennial, and thereafter of every alternate biennial registration, the Colony shall be redivided into electoral divisions for the purpose of the election of Members of the Legislative Assembly.

*Commissioners.*

XV. For the purpose of every such redivision, the Governor in Council shall, upon the completion of the final lists of voters made in pursuance of the second biennial registration, and upon the completion of the voters' lists made in pursuance of every alternate biennial registration thereafter, appoint three Commissioners, and may, on the death, resignation, or absence from the Colony of any of the said Commissioners, appoint another Commissioner, and any person so appointed shall have all the powers, and shall perform all the duties of the Commissioner in whose place he is appointed. For the purposes of any such redivision the Commissioners shall proceed in accordance with the regulations prescribed in the Third Schedule to these Our Letters Patent.

*List of Electoral Divisions.*

XVI. (1) The Commissioners shall submit to the Governor in Council:

(a) A list of electoral divisions, with the names given to them by the Commissioners, and a description of the boundaries of every such division.

(b) A map or maps showing the electoral divisions into which the Colony has been divided.

(c) Such further particulars as they consider necessary.

(2) The Governor in Council may refer to the Commissioners, for their consideration, any matter relating to such list, or arising out of the powers or duties of the Commissioners.

(3) The Governor in Council shall publish the names and boundaries of the electoral divisions as finally settled by the Commissioners, in the *Gazette*, and thereafter until there shall be another redivision the electoral divisions so named and defined shall be the electoral divisions of the Colony and each such division shall return one Member to the Legislative Assembly.

(4) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

*When redivision of Colony to come into operation.*

XVII. Any redivision of the Colony made as aforesaid shall come into operation at the next general election held after the completion of the redivision, and not earlier.

*Qualification of Members of Legislative Assembly.*

XVIII. (1) Any person (save as herein excepted) who shall be qualified to be registered as a voter in and for any

electoral division shall be qualified and entitled to be elected a Member of the Legislative Assembly for that or any other electoral division.

\* (2) No person holding any office of profit under the Crown within the Colony (other than a Minister as hereinafter defined), no unrehabilitated insolvent, no person whose estate shall be in liquidation under assignment in trust for his creditors, and no person declared of unsound mind by a competent Court shall be eligible to be elected a Member of the said Assembly.

\* (3) The receipt of a pension from the Crown, or by an officer of Our Naval or Military forces of retired or half pay, shall not be deemed to be holding an office of profit under the Crown.

(4) No person who has acted as a registering or revising officer in connection with the framing or revision of a voters' list for any electoral division shall be eligible to be elected as a Member for that division while such list is in force.

*Speaker of Legislative Assembly.*

XIX. (1) The Legislative Assembly shall, on their first meeting, before proceeding to the despatch of any other business, elect one of their members to be Speaker of the said Assembly, subject to confirmation by the Governor, until the dissolution thereof, and in case of vacancy in the office another Speaker shall be elected in like manner and subject to such confirmation as aforesaid.

(2) The seat of a Member elected to be Speaker shall thereupon become vacant and a fresh election shall forthwith be held to fill the vacancy, and the Speaker shall not be a Member of the Legislative Assembly while he is Speaker.

*Speaker to preside.*

XX. The Speaker, or in his absence some Member elected by the Legislative Assembly, shall preside at the meetings thereof.

*Quorum.*

XXI. The Legislative Assembly shall not be disqualified from the transaction of business on account of any vacancies among the Members thereof, but the said Assembly shall not be competent to proceed to the despatch of business unless twenty-one Members be present.

*Resignation of Seat in Legislative Assembly.*

XXII. Any Member of the Legislative Assembly may resign his seat therein by writing under his hand addressed to the Speaker, and upon the receipt of such resignation by the Speaker the seat of such Member shall become vacant; provided that no Member shall, without the permission of the Legislative Assembly, resign his seat while any proceedings

\* See Act No. 1 of 1907, enacting that a person performing certain services in respect of which fees are paid out of the public revenue shall not be deemed to hold an office of profit under the Crown.

are pending in respect of his election if it is alleged in those proceedings that any corrupt or illegal practices took place at that election.

*Writs for Filling Vacancies.*

XXIII. (1) Whenever a vacancy occurs in the Legislative Assembly from any cause, other than as the result of an election petition, the Speaker shall, upon a Resolution of the said Assembly declaring such vacancy, inform the Governor thereof.

(2) Provided that if such vacancy occurs when the Legislative Assembly is not in session the Speaker, or, in case of the death, incapacity, or absence from the Colony of the Speaker, the Clerk to the Assembly may, on a certificate under the hands of two members of the Assembly stating that such vacancy has occurred and the cause thereof, inform the Governor thereof.

(3) The Governor on receiving such information, shall cause the necessary steps to be taken as prescribed in the Second Schedule hereto for filling such vacancy.

LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY.

*Sessions of Legislature.*

XXIV. (1) There shall be a Session of the Legislature once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the Legislature in one Session and the first sitting thereof in the next Session.

(2) The first Session shall be held within six months of the date when these Our Letters Patent shall commence to take effect.

*Place and Times of holding Sessions of Legislature.*

\*XXV. The first and every other Session of the Legislature shall, until otherwise directed by law, be held in Pretoria at such times as may be notified by the Governor by Proclamation in the *Gazette*.

*Prorogation and Dissolution of Legislative Council and Legislative Assembly.*

XXVI. (1) The Governor may from time to time prorogue the Legislature by Proclamation, which shall be published in the *Gazette*, and the Governor may, whenever he shall think fit, dissolve the Legislative Assembly and any elected Legislative Council in like manner.

(2) The Governor shall dissolve the Legislative Assembly and any elected Legislative Council at the expiration of five years from the date of its election.

*Governor may transmit Bills to Legislature.*

XXVII. The Governor may transmit by Message to the Legislative Council and the Legislative Assembly the Draft of any Bill which it may appear to him desirable to introduce,

\* The first session commenced on the 21st March, 1907, see Proclamation No. 25, Admn., 1907.

and all such drafts shall be taken into consideration by the said Council and Assembly, as the case may be, in such convenient manner as shall be provided in that behalf by Rules of Procedure.

*Oath to be taken by Members of Legislature.*

XXVIII. (1) Every Member of the Legislative Council and Legislative Assembly shall before being permitted to sit or vote therein, take and subscribe the following oath before the President or Speaker respectively, or before such person as may be appointed thereto by the Governor should such oath be required to be taken before the appointment or election of a President or Speaker as the case may be:—

“I, A. B., do swear that I will be faithful and bear true allegiance to His Majesty King Edward the VIIth, his heirs and successors, according to law. So help me God.”

(2) Provided that any person authorised by law to make a solemn affirmation or declaration instead of taking an oath, may make such affirmation or declaration in lieu of such oath.

*All Questions to be decided by Majority of Votes.*

XXIX. All questions in the Legislative Council or Legislative Assembly shall be determined by a majority of the votes of Members present, other than the President, Speaker, or presiding Member, who shall, however, have and exercise a casting vote in case of an equality of votes.

*Member's seat in Legislature, how vacated.*

XXX. If any Member of the Legislative Council or Legislative Assembly shall—

(1) Fail for a whole ordinary annual Session to give his attendance in the Legislative Council or Legislative Assembly; or

(2) Shall take any oath or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign State or Power; or

(3) Shall do, concur in, or adopt any Act whereby he may become the subject or citizen of any such State or Power; or

(4) Shall become an insolvent or take advantage of any law for the relief of insolvent debtors; or

(5) Shall be a public defaulter, or be attainted of treason, or be sentenced to imprisonment for any infamous crime; or

(6) Shall become of unsound mind; or

\* (7) Shall accept any office of profit under the Crown other than that of a Minister, or that of an officer of Our Naval or Military forces on retired or half-pay;

His seat shall become vacant, and if any person under any of the disqualifications herein mentioned shall, while so

\* See Act No. 1 of 1907 enacting that a member performing certain services in respect of which fees are paid out of the public revenue shall not be deemed to hold an office of profit under the Crown.

disqualified, knowingly sit or vote as a Member of the said Council or Assembly, such person shall forfeit the sum of one hundred pounds, to be recovered by the Attorney-General for the benefit of the Treasury by action in the Supreme Court.

*Saving of Pensioners.*

\*Provided that a person in receipt of pension from the Crown shall not be deemed to hold an office of profit under the Crown within the meaning of this section.

*Standing Rules and Orders.*

XXXI. (1) The Legislative Council and Legislative Assembly in their first Session, and from time to time afterwards as there shall be occasion, shall each adopt Standing Rules and Orders, joint as well as otherwise, for the regulation and orderly conduct of their proceedings and the despatch of business, and for the order in which the said Council and Assembly shall confer, correspond, and communicate with each other, and for the passing, intituling, and numbering of Bills, and for the presentation of the same to the Governor for Our Assent.

(2) All such Rules and Orders shall by the said Council and Assembly respectively be laid before the Governor in Council, and being by him approved shall become binding and of force.

(3) Provided that the Standing Rules and Orders of the Legislative Council as now subsisting shall, until altered, added to, or amended, be the Standing Rules and Orders of the Legislative Council and of the Legislative Assembly.

*Officers of Legislature.*

‡ XXXII. The salary of the President of the Legislative Council and of the Speaker of the Legislative Assembly shall be such as may be prescribed by any law of the Colony; and the Chief Clerk for the time being of the Legislative Council and of the Legislative Assembly shall, respectively, be removable from office only in accordance with a vote of the House of which he is an officer.

*Privileges, etc., of Members.*

†XXXIII. It shall be lawful for the Legislature of the Colony by any law to define the privileges, immunities, and powers to be held, enjoyed, and exercised by the Legislative Council and Legislative Assembly, and by the Members thereof respectively:

Provided that no such privileges, immunities, or powers shall exceed those for the time being held, enjoyed, and exercised by the Commons' House of Parliament of Our United Kingdom, or the Members thereof.

\* See Act No. 1 of 1907 enacting that a member performing certain services in respect of which fees are paid out of the public revenue shall not be deemed to hold an office of profit under the Crown.

‡ See Act No. 24 of 1907, fixing salaries.

† For law defining such powers, immunities, and privileges, see Act No. 3 of 1907.

*Language in Debates.*

XXXIV. (1) All debates and discussions in the Legislative Council and Legislative Assembly shall be conducted in the English or Dutch language, and in no other language, and copies of the votes and proceedings of the said Council and Assembly, and of all proposed laws, shall be printed both in the English and Dutch languages.

*Language in Records.*

(2) Save as aforesaid, all journals, entries, minutes, and proceedings of the Legislative Council and Legislative Assembly shall be made and recorded in the English language.

*Payment of Members.*

XXXV. *Repealed by Act No. 12, 1907, section one.*

## LEGISLATION.

*Power to make Laws.*

XXXVI. (1) It shall be lawful for Us and Our successors, by and with the advice and consent of the Legislative Council and Legislative Assembly, subject to the provisions of these Our Letters Patent, to make all laws, to be entitled "Acts," which shall be required for the peace, order, and good government of the Colony.

(2) A law passed by the Legislative Council and Legislative Assembly may repeal or alter any of the provisions of these Our Letters Patent.

*Disagreement between the Legislative Council and the Legislative Assembly.*

XXXVII. (1) If the Legislative Assembly passes any proposed law and the Legislative Council rejects or fails to pass it, or passes it with amendments to which the Legislative Assembly will not agree, and if the Legislative Assembly in the next Session again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Legislative Council, and the Legislative Council rejects or fails to pass it, or passes it with amendments to which the Legislative Assembly will not agree, the Governor may during that Session convene a joint sitting of the Members of the Legislative Council and Legislative Assembly in the manner hereinafter provided, or may dissolve the Legislative Assembly, and may simultaneously dissolve both the Legislative Council and Legislative Assembly if the Legislative Council shall then be an elected Council. But such dissolution shall not take place within six months before the date of the expiry of the Legislative Assembly by effluxion of time.

(2) If after such dissolution the Legislative Assembly again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Legislative Council, and the Legislative Council rejects, or fails to pass it, or passes it with amendments to which the

Legislative Assembly will not agree, the Governor may convene a joint sitting of the Members of the Legislative Council and of the Legislative Assembly, at which the Speaker of the Legislative Assembly shall preside.

(3) The Members present at any joint sitting, convened under either of the preceding sub-sections, may deliberate and shall vote together upon the proposed law, as last proposed by the Legislative Assembly, and upon amendments, if any, which have been made therein by the one House of the Legislature and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the Members of the Legislative Council and Legislative Assembly shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the Members of the Legislative Council and Legislative Assembly, it shall be taken to have been duly passed by the Legislature.

*Governor's Assent to Laws.*

XXXVIII. When any law has been passed by the Legislature it shall be presented for Our Assent to the Governor, who shall declare according to his discretion, but subject to this Constitution and to any instructions in that behalf given to him under Our Sign Manual and Signet, or through a Secretary of State that he assents in Our name, or that he withholds Assent, or that he reserves the law for the signification of Our pleasure.

*Description of Bills to be reserved.*

XXXIX. Unless he shall have previously obtained Our instructions upon such law through a Secretary of State, or unless such law shall contain a clause suspending the operations of such law until the signification in the Colony of Our pleasure thereupon;

The Governor shall reserve—

(a) Any law whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable.

(b) Any law which may repeal or alter any of the provisions of these Our Letters Patent or of any Letters Patent, or Orders in Our Privy Council relating to the Colony.

And whereas it is Our will and pleasure that all persons within Our dominions shall be free from any conditions of employment or residence of a servile character, the Governor shall reserve any law providing for the introduction under contract, indenture, or licence of labourers into the Colony from places outside South Africa.

*Return of Bills by Governor to the Legislature.*

XL. The Governor may return to the Legislative Council and Legislative Assembly any proposed law so presented to



him, and may transmit therewith any amendments which he may recommend, and the Legislative Council and Legislative Assembly may deal with the recommendation.

*Disallowance by the King.*

XLI. It shall be lawful for Us, Our heirs, and successors to disallow any law within two years from the date of the Governor's Assent thereto, and such disallowance, on being made known by the Governor by Speech or Message to the Legislative Council and the Legislative Assembly, or by Proclamation, shall annul the law from the day when the disallowance is so made known.

*Signification of King's Pleasure on Bills Reserved.*

XLII. A proposed law reserved for Our pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor for Our Assent the Governor makes known, by Speech or Message to the Legislative Council and the Legislative Assembly, or by Proclamation, that it has received Our Assent.

*Laws Reserved. When to Take Effect.*

XLIII. Whenever any law has been reserved for the signification of Our pleasure thereon and the Governor shall signify, either by Message to the Legislature or by Proclamation in the *Gazette*, that such law has been laid before Us in Our Privy Council, and that We have been pleased to assent to the same, an entry shall be made in the journals of the Legislative Council and Legislative Assembly of every such Message or Proclamation, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept amongst the records of the Colony.

*Laws to be printed in "Gazette."*

XLIV. The Governor shall cause every law which shall have been assented to in Our name to be printed in the *Gazette*, in both the English and Dutch languages, for general information.

*Copies of Laws to be enrolled.*

XLV. As soon as may be after any law shall have been assented to in Our name by the Governor, or having been reserved for the signification of Our pleasure, our Assent thereto shall, in manner aforesaid, have been signified by the Governor; the Clerk of the Legislative Assembly shall cause a fair copy of such law, in the English language, signed by the Governor, to be enrolled on record in the Office of the Registrar of the Supreme Court and such copy shall be conclusive evidence as to the provisions of every such law; provided, however, that the validity of any such law shall not depend upon the enrolment thereof.

*Certificates of Disallowance to be enrolled.*

XLVI. Whenever any law assented to by the Governor in our name, in manner aforesaid, has been disallowed by

Us, the Governor shall cause a certificate of such disallowance, certified under the Public Seal of the Colony, to be enrolled in the Office of the Registrar of the Supreme Court.

### THE MINISTRY.

#### *Ministerial Offices.*

\* XLVII. (1) Within four months after the commencement of these Our Letters Patent, the Governor may designate such offices as he thinks fit, not being more than six in number, to be offices of Ministers.

(2) Appointments to such offices shall be made by the Governor in Our name, and such offices shall be held during Our pleasure.

(3) The holders of such offices shall be styled Ministers, and a Minister shall not vacate his seat in the Legislative Council or Legislative Assembly by reason of his appointment to or retention of any such office.

#### *Rights of Ministers to speak and vote.*

(4) Every Minister who is a Member of either House of the Legislature shall have the right to sit and speak both in the Legislative Council and Legislative Assembly, but shall vote only in the Council or Assembly (as the case may be) of which he is a Member.

### JUDGES.

#### *Judges' Appointment, Tenure, and Remuneration.*

XLVIII. The Judges of the Supreme Court

(1) Shall be appointed by the Governor in Council;

(2) Shall not be removed except by the Governor in Council on an address from the Legislative Council and Legislative Assembly, praying for such removal on the ground of proved misbehaviour or incapacity;

(3) Shall receive such remuneration as shall from time to time be prescribed by law, but the remuneration of a Judge shall not be diminished during his tenure of office;

(4) The remuneration of the present judges shall not be diminished and their commissions shall continue as heretofore.

### INTER-COLONIAL COUNCIL.†

XLIX. (1) (a) The Inter-Colonial Council established under the Inter-Colonial Council South Africa Order in Council shall continue to exercise such powers and perform such duties as it has hitherto exercised and performed.

(b) On the date of the election of the Legislative Assembly the four Members of the Council nominated by the Lieutenant-Governor and the six Members of the Council elected from among themselves by the Members of the present Legislative Council of the Colony shall cease to be Members of the said Inter-Colonial Council.

\* For appointment of Ministry, see Govt. Notices Nos. 280 of 1907 (*Gazette*, 4/3/07) and 351 of 1907 (*Gazette*, 22/3/07), establishing Prime Minister's Department.

† See Act No. 8 of 1908.

(c) The vacancies caused on the said Council as aforesaid and the vacancy caused by the abolition of the office of Lieutenant-Governor of the Colony shall be filled by

(1) seven Members of the Legislative Assembly to be elected by it from among the Members thereof as soon as practicable after its first meeting, and

(2) four persons to be appointed thereto by the Governor in Council;

(d) Provided that it shall be lawful for the Governor, prior to such election or appointment, to appoint such persons as he may think fit to fill vacancies on the said Council or on the Railway Committee thereof, who shall hold office as Members of the Council until the said election and appointment as aforesaid, and as Members of the said Committee until the appointment of a Railway Committee by the Inter-Colonial Council according to law.

(2) The Government of the Transvaal or the Government of the Orange River Colony may, at any time after Ministers have been appointed under Responsible Government in both Colonies, give notice either to the other to terminate the Council or any of the services now administered by it or on its advice, and at the expiration of six months from the date of such notice the Council shall cease to exist or such service shall be terminated and no longer administered by the said Council or on its advice, as the case may be, and the said Inter-Colonial Council South Africa Orders in Council shall cease to be operative either entirely or in respect of the service so terminated, as the case may be, without prejudice to anything lawfully done thereunder.

(3) All the property administered by or on the advice of the said Council, and all its rights and liabilities in connection therewith, shall, on the termination of the said Council, or on the termination of any service administered by or on its advice, in so far as such property rights and liabilities relate to such service, be equitably apportioned and divided between the Governments of the said Colonies, provided always that no such apportionment or division shall be carried out in such a way as to affect the rights of creditors or any mortgage or security upon any property now vested in the High Commissioner and Governor as the common property of both Colonies, and in particular any mortgage charge or security securing the payment of the capital and interest of the loan authorised by the Ordinance of the Colony intituled the "Transvaal Guaranteed Loan Ordinance 1903." For the purposes of such apportionment and division the aforementioned loan shall be deemed and taken to be a liability of the Council.

(4) In default of agreement between the Government of the Transvaal and the Government of the Orange River Colony touching any such apportionment and division, or any matter consequent upon the termination of the Council or of any service administered by it, such matter shall, if both Governments agree thereto, be referred to arbitration, and in

default of such agreement, then upon the petition of either Government shall be referred to Us in Our Privy Council, and Our said Council shall have power to hear and finally determine the same, and the Governments of the Transvaal and Orange River Colony shall thereupon take all such action as may be necessary to carry out the decision of Our said Council.

#### LABOUR IMPORTATION ORDINANCES.

\* L. (1) From and after the commencement of these Our Letters Patent no licence shall be issued for the introduction of labourers into the Colony under the provisions of the Ordinance intituled the "Labour Importation Ordinance, 1904," and no contract made under the authority thereof shall be renewed after the said date.

(2) Upon the termination of the period of one year from the date of the first meeting of the Legislature, the Ordinance of the Colony intituled "The Labour Importation Ordinance, 1904," and all Ordinances amending the same, and all Rules and Regulations made under the authority of the said Ordinances, shall be repealed and cease to have effect within the Colony, and the system of labour deriving effect from the said Ordinances, Rules and Regulations shall accordingly be determined.

(3) The Legislature of the Colony may by any law or laws accelerate the determination of the said system of labour or regulate the same, subject to the conditions of these Our Letters Patent and provide for all such matters as it may be necessary to provide for in consequence of the provisions of this section, and for carrying into effect the declarations and enactments of these Our Letters Patent in that behalf.

#### NATIVE ADMINISTRATION.

*Governor to be Paramount Chief.*

*Assemblies of Chiefs, etc. Native Lands.*

LI. (1) The Governor shall continue to exercise over all Chiefs and natives in the Colony all power and authority now vested in him as Paramount Chief.

(2) The Governor in Council may at any time summon an assembly of native Chiefs, and also, if it shall seem expedient, of other persons having special knowledge and experience in native affairs, to discuss with the Governor, or such representative as the Governor in Council may appoint, any matters concerning the administration of native affairs or the interests of natives, and the Governor in Council shall consider any reports or representations submitted to him by any such assembly, and shall take such action thereupon as may seem necessary or proper.

(3) No lands which have been, or may hereafter be, set aside for the occupation of natives shall be alienated or in

\* See Act No. 19 of 1907, sections 2 and 3.

any way diverted from the purposes for which they are set apart otherwise than in accordance with a law passed by the Legislature.

#### LAND SETTLEMENT. ‡

§ LII. (1) (a) There shall be established in the Colony on the appointed day (as hereinafter defined) a Board to be called the Transvaal Land Settlement Board for the purpose of exercising and discharging, in respect of the lands hereinafter mentioned and the persons in occupation of them, the rights and duties conferred and imposed upon the Government of the Colony or any Member thereof by any law of the Colony or by any agreement between such persons and the Government.

\* (b) The Board shall be a Body Corporate, and shall consist of three Members, resident in the Colony, one of whom shall be Chairman. The Chairman and Members of the said Board shall be appointed by the Governor, and shall hold office during his pleasure, and be paid such salaries as he may determine.

If any vacancy arises on the Board, the Governor shall appoint some other person residing in the Colony to fill such vacancy.

(c) It shall be lawful for the Governor to appoint at such salaries as he may determine such officers as may be necessary to assist the Board in carrying out the purposes for which it is established, and to make rules and regulations—

- (i) For the proper discharge by the Board and the aforesaid officers of the duties imposed on them;
- (ii) For the proceedings of the said Board;
- (iii) For the proper keeping of and auditing of the accounts of the said Board.

† (2) (a) There shall, on the appointed day, be transferred, without payment of transfer duty, stamp duty or registration charges in the Deeds Office of the Colony, to and in the name of the Board and for the purposes aforesaid, such of Our lands in the Colony as are on the appointed day held by Settlers on the conditions prescribed in the Ordinance of the Colony intituled the "Settlers Ordinance, 1902," or by Settlers to whom advances have been made out of such portion of the loan authorised under the Ordinance of the Colony intituled "The Transvaal Guaranteed Loan Ordinance, 1903," as has been allocated to Land Settlement in the Colony.

(b) There shall further be transferred, on the appointed day, to the Board for the aforesaid purposes, all movable property vested in the Government of the Colony, and used in connection with the said lands, and all rights and obligations acquired or incurred by the Government against or towards the persons in occupation of the said lands and in respect thereof.

‡ See Act No. 37 of 1907 and Act No. 35 of 1908, sec. 13.

§ As to constitution of Transvaal Land Settlement Board, see Proc. (Admn.) 24 of 1907.

\* By Act No. 1 of 1907 membership of this Board is not to be deemed the holding of an office of profit under the Crown.

† But see also Act No. 37 of 1907.

(c) There shall further be transferred to the Board for the said purposes, and more especially for the purposes of making advances under the authority of the said Settlers Ordinance to the persons in occupation of the aforementioned lands, all moneys paid to the said Government by such persons as aforesaid in discharge of their obligations to it and held by it on the appointed day for or on account of Land Settlement, and any balance of money appropriated by the Inter-Colonial Council to the said Government out of the loan authorised by the Transvaal Guaranteed Loan Ordinance 1903 for the purposes of Land Settlement, together with such further sums as may be approved by a Secretary of State out of moneys hereafter appropriated to the Government by the said Council for Land Settlement purposes.

\* (3) The said Board may, with the approval of the Governor, exercise all the rights and discharge all the duties conferred and imposed by law or agreement on the Government of the Colony or any Member thereof, in respect of the aforementioned lands and the persons in occupation of them, and may appropriate to such purpose and generally to the cost of carrying out this section any moneys paid to it after the appointed day by such persons as aforesaid in discharge of any obligations incurred by them to the Government, as well as any moneys transferred to it under sub-section 2 (c) of this section.

(4) (a) The rights, powers, and duties conferred and imposed by this section on the Board shall be determined on the expiration of five years reckoned from the appointed day; provided always that it shall be competent for the Government of the Colony to make an agreement, subject to the consent of the Governor and with the approval of a Secretary of State, with the Board in respect of the matters referred to in this section whereby the said rights, powers, and duties aforesaid shall be sooner determined.

(b) On the determination of the said rights, powers, and duties the Board shall transfer to the Governor in Council the aforementioned lands registered in its name and all movable property, moneys, rights, and obligations acquired and incurred by it under the provisions of this section, and the Board shall thereupon be dissolved.

‡ (5) The appointed day shall be such day as may be proclaimed by the Governor in the *Gazette*.

#### GENERAL PROVISIONS.

##### *Consolidated Revenue Fund.*

† LIII. All taxes, imposts, rates, and duties, and all territorial, casual and other revenues of the Crown (including royalties) from whatever source arising within the Colony over which the Legislative Council and Legislative Assembly

\* But see also Act No. 37 of 1907.

‡ The appointed day was the 1st May, 1907, see Proclamation No. 24 Admn., 1907.

† See however Act No. 8 of 1908, sec. 3.

have power of appropriation, shall form one Consolidated Revenue Fund to be appropriated to the public service of the Colony in the manner and subject to the charges hereinafter mentioned.

*Costs of Collection and Management of Fund.*

LIV. (1) The Consolidated Revenue Fund shall be permanently charged with all the costs, charges, and expenses incident to the collection, management, and receipt thereof.

(2) All such costs, charges, and expenses shall be subject to be reviewed and audited in such manner as may from time to time be directed by any law passed by the Legislature.

*Appropriation and Taxation Bills to originate in Legislative Assembly.*

LV. All Bills for appropriating any part of the Consolidated Revenue Fund or for imposing, altering, or repealing any rate, tax, duty, or impost shall originate in the Legislative Assembly.

*Powers of Legislative Council thereon.*

LVI. The Legislative Council may either accept or reject any Money Bill passed by the Legislative Assembly, but may not alter it.

*Manner in which the public revenue shall be appropriated to the public service.*

LVII. (1) It shall not be lawful for the Legislative Assembly to pass any law, vote, or resolution which shall have the effect of appropriating any part of Our revenue within the Colony or of imposing any rate, tax, or duty, unless such law, vote, or resolution has been first recommended to the Assembly by message of the Governor during the Session in which it is proposed.

(2) No part of Our revenue within the said Colony shall be issued, except in pursuance of a Warrant under the hand of the Governor directed to the Colonial Treasurer.

*Reserve Civil List.*

LVIII. (1) There shall be payable to Us, in every year, out of the Consolidated Revenue Fund, the sums mentioned in Schedules 4 and 5 to these Our Letters Patent for defraying the expenses of the services and purposes set forth in the said Schedules.

(2) The said several sums shall be issued by the Treasurer in discharge of such Warrants as shall from time to time be directed to him under the hand of the Governor.

*Appointments to Public Offices.*

LIX. The appointment to, and removal from, all public offices under the Government of the Colony hereafter to become vacant or to be created save those of Ministers shall, subject to any law hereafter in force in the Colony, be vested in the Governor in Council.

*Pensions on retirement of certain official Members of the Executive Council.*

LX. (1) In the event of the retirement from office of any Member of the Executive Council named in Schedule 5 hereto, such member shall, subject to the proviso hereafter contained, be entitled to the pension set opposite his name in the said Schedule.

(2) Provided that if any such Member shall accept any other appointment under the Crown in the Colony or elsewhere, his pension or retiring allowance shall, during the tenure of such appointment, merge or be reduced, *pro tanto*, according as the salary or emolument of any such appointment shall be equal to or less than the pension or retiring allowance of such Member.

*Powers of Lieutenant-Governor to be exercised by Governor in Council.*

\*LXI. (1) Where, under any law of the Colony, any power, jurisdiction, or authority, is at the date of the commencement of these Our Letters Patent exercised by the Lieutenant-Governor, such power, jurisdiction, or authority shall be exercised by the Governor in Council, and where, under any law, any power, jurisdiction, or authority has been conferred on any Member of the existing Executive Council of the Transvaal, such power, jurisdiction, or authority shall be exercised by the Minister to whom it shall be assigned by the Governor in Council.

*Meaning of "Legislative Council" in existing Laws.*

(2) Where in any existing law the words "Legislative Council" occur, they shall, unless the context otherwise indicates, be read as if they were "Legislative Council and Legislative Assembly."

*Power to Amend by Proclamation.*

LXII. The Governor may, by proclamation in the *Gazette* at any time, before the date of the nomination of persons for election as Members of the Legislative Assembly, and provided that Our approval be previously signified to him through a Secretary of State, vary, annul, or add to any of the provisions of these Our Letters Patent, in order to carry out the purposes of the same, and may provide for any other matter necessary in order to carry into effect the provisions thereof.

*Definitions.*

LXIII. In these Our Letters Patent, unless the contrary intention appears—

"Date of the election of the Legislative Assembly" means the date of the Proclamation in the *Gazette* of the persons elected as Members of the Legislative Assembly at a General Election.

\* For assignment to Ministers of powers, jurisdiction, and authority of members of the late Executive Council, see Government Notice No. 281 of 1907 (*Gazette*, 4/3/07).



“*Gazette*” means the *Transvaal Government Gazette*.

“*Governor*” means the officer for the time being administering the Government of the Colony.

“*Governor in Council*” means the Governor acting by and with the advice of the Executive Council.

“*Secretary of State*” means one of Our Principal Secretaries of State.

*Commencement of Letters Patent.*

*Revocation of earlier Letters Patent, etc.*

\*LXIV. These Our Letters Patent shall be proclaimed at such place or places within the Colony as the Governor shall think fit, and shall commence and come into operation on a day to be fixed by the Governor by proclamation in the *Gazette* and thereupon the Letters Patent, Orders in Council, and Instructions, described in Schedule 6 hereto, shall, without prejudice to anything lawfully done thereunder, be revoked.

*Short Title.*

LXV. These Our Letters Patent may be cited as “The Transvaal Constitution Letters Patent, 1906.”

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourselves at Westminster, this sixth day of December, in the sixth year of Our Reign.

By Warrant under the King’s Sign Manual.

MUIR MACKENZIE.

*SCHEDULE I.*

(See Section VIII.)

*Instructions to Commissioners.*

1. Members of the Legislative Assembly shall be allotted to each magisterial district of the Colony as at present defined as follows:—

Barberton .. .. .	1
Lydenburg .. .. .	2
Ermelo .. .. .	2
Heidelberg .. .. .	2
Lichtenburg .. .. .	1
Marico .. .. .	1
Middelburg .. .. .	2
Potchefstroom—Municipality .. .. .	1
District, excluding municipality	3
	—
	4
Rustenburg .. .. .	2
Standerton .. .. .	2
Wakkerstroom .. .. .	2
Pretoria—Urban .. .. .	6
District, other than urban .. .. .	3
	—
	9
Waterberg .. .. .	1
Wolmaransstad .. .. .	2
Zoutpansberg .. .. .	2
Witwatersrand .. .. .	34
	—
TOTAL .. .. .	69

\* By Proclamation No. 6, Admn., 1907, the Letters Patent were put into operation as from the 12th January, 1907.

2. The Commission will commence its work by dividing the Witwatersrand into five parts. In making this division regard will be had, as far as possible to existing administrative areas. Each of the said five parts shall, for delimitation purposes, be treated as if it were a magisterial district, and the Commissioners shall allot a number of members of the House of Assembly to each of the said parts proportional to the number of voters in each—the total number of members allotted to the whole of the Witwatersrand District being thirty-four.

3. The Commissioners shall, after dividing the Witwatersrand District into five parts as above mentioned, divide each of the said parts and each magisterial district and municipality to which more than one member is allotted into electoral divisions, each returning one member to the House of Assembly. In doing so, due regard will be paid to the following considerations:—

- (1) The number of voters in any one of such parts of the Witwatersrand District or such magisterial district or municipality as aforesaid, divided by the number of members of the House of Assembly allotted to such part, district, or municipality respectively, shall be termed the quota, and each of the electoral divisions into which such part, district, or municipality is divided shall, subject to the considerations hereinafter mentioned, contain a number of voters as nearly as may be equal to the quota for such part, district, or municipality respectively.
- (2) The electoral divisions aforesaid shall, as far as may be, follow recognized administrative boundaries, and, if necessary to enable this to be done, the number of voters in an electoral division may differ as much as 15 per cent. from the quota of the part, magisterial district, or municipality in which it is situated.
- (3) In delimitation the Commissioners shall give due consideration to—
  - (a) Existing boundaries of municipal and magisterial wards and the boundaries of old magisterial districts, such as Carolina, Bloemhof, etc., now included in existing magisterial districts;
  - (b) Community or diversity of interest;
  - (c) Means of communication;
  - (d) Physical features.
- (4) If there shall be in any magisterial district a municipality within the boundaries of which there shall be a number of voters not less than the quota for the district, the municipality or so much thereof as shall contain a number of voters approximately equal to the quota for the district shall be made a separate electoral division, and if the number of voters in any such municipality shall not be equal to the quota for the district the whole of the municipal area shall be included in one electoral division.

4. The Commissioners shall give a name to each electoral division defined by them as aforesaid, and shall supply a map or maps on which the boundaries of each such electoral division are marked and a written description of its extent. Should any discrepancy be found between the map and the written description, the latter shall prevail.

5. The Commissioners shall base such divisions as aforesaid on the Voters' Lists prepared under "The Transvaal Constitution Order in Council, 1905"; but before finally settling the electoral divisions they shall check the results so obtained by the Voters' Lists prepared under "The Transvaal Constitution Order in Council, 1906." Should the divisions based on the former be found, according to the latter, to give results which the Commissioners consider unfair, they shall revise such divisions according to the Voters' List framed under "The Transvaal Constitution Order in Council, 1906."

6. The Municipality of Potchefstroom, and each magisterial district to which one member only is allotted, shall be an electoral division, entitled to return one member to the House of Assembly.

## SCHEDULE II.

(See Section XII.)

*Regulations as to the Registration of Voters, the preparation of Lists of Voters, and the Conduct of Elections.*

## PART I.

*Application of Part I.*

1. Part I of this Schedule shall apply to the preparation and revision of voters' lists other than the lists mentioned in Section XI of the Letters Patent.

*Registering Officers.*

2. For the purpose of compiling the general register of qualified voters for any election of members in and for the electoral divisions into which the Colony is divided, the Governor shall by Proclamation in the *Gazette* enjoin and direct some fit and proper person (hereinafter referred to as the "Registering Officer") to make out in and for each electoral division an alphabetical provisional list of all persons qualified to be registered as voters who are *bona fide* residing in such electoral division. Such Proclamation shall fix the date of the commencement of such list and the date of the completion thereof.

Upon the issue of such Proclamation the Colonial Secretary shall cause a notice in terms of Annexure (A) hereto to be inserted both in English and Dutch in the *Gazette* and in some newspaper or newspapers circulating within such electoral division, or to be given in such other manner as he may deem best for the purpose of general information.

*Particulars to be inserted in Provisional List of Voters.*

3. The Registering Officer shall insert in the said list the name, residence, trade, profession, or occupation of every person who shall be known, or on reasonable grounds believed by him, to be entitled to be inserted therein, or who shall in manner hereinafter prescribed claim to be inserted therein: provided he is satisfied after due inquiry that such claim is *bona fide*, and that the claimant possesses the required qualification.

*Provisional List to be posted in Public Place.*

4. (1) At the expiration of the time fixed by the Proclamation aforesaid for the completion of the list aforesaid it shall be the duty of the Registering Officer to post and affix the same on the door of or in some conspicuous place near to his office or dwelling-house, or in some other public place or places within the electoral division for which such list is framed. The said list shall remain so posted or affixed between the hours of seven in the morning and five in the afternoon daily for a period of not less than five weeks.

(2) If any person shall during such period as aforesaid wilfully tear down, cover over, deface, or obliterate either wholly or in part any such list or any such other list or notice as is hereinafter mentioned, he shall on conviction be liable to be imprisoned with or without hard labour for a period not exceeding three months.

*Notices to be annexed to Lists posted under last preceding Section.*

5. There shall be subjoined or annexed to every list posted under the last preceding section a notice signed by the Registering Officer, which notice shall be both in the English and Dutch languages, and shall be in substance as set forth in Annexure (B) hereto.

*Form of Claim and Objection.*

6. (1) The form of claim to be registered as a voter and the form of objection to the name of any person inserted in the aforesaid list shall be annexed to the notice mentioned in the last preceding section, and shall be in substance as set forth in Annexure (C) hereto, and shall be signed—

(i) In the case of a claim:

- (a) By the claimant himself, if he is actually resident in the Colony; or
- (b) If the claimant is temporarily absent from the Colony, by a person resident therein authorized by such claimant in writing;

(ii) In the case of an objection, by the objector himself.

Every such form of claim or objection shall be signed in the presence of one witness at least.

(2) Any person delivering to the Registering Officer any claim to be registered as a voter may tender such claim in duplicate, and it shall be the duty of the Registering Officer when a claim is so tendered to him, upon satisfying himself that the contents of the original and duplicate are alike, to retain the original and return the duplicate to the person who tendered it to him, having first signed the same and properly dated it.

(3) Every claim to be registered as a voter lodged with the Registering Officer shall be open to public inspection at the office or house of the Registering Officer or at such convenient place within the electoral division as may be publicly notified by the Registering Officer between the hours of ten in the morning and five in the afternoon, excepting Sunday, for the period between the last day for sending in claims and the day fixed by the Registering Officer for lodging objections.

*Registering Officer's Duty with regard to Claims.*

7. It shall be the duty of the Registering Officer to receive and deal as directed by this schedule with all claims to be registered as voters which are lodged with him within the period prescribed for lodging claims, whether such claims are transmitted through the post or delivered or sent to him in any other manner. Immediately on the expiration of the period prescribed for lodging claims the Registering Officer shall frame an alphabetical list of all claimants whose names have been lodged with him, which list shall be in the form prescribed in Annexure (D) hereto.

*List of Claimants to be Posted up.*

8. The Registering Officer shall forthwith post or affix the aforesaid list of claimants in the same place or places where the provisional list of voters already framed by him has been posted or affixed, and as close as possible to the said provisional list. The said list of claimants shall remain so posted or affixed between the hours of seven in the morning and five in the afternoon daily until the date fixed by the Registering Officer for the lodging of objections. Subjoined or annexed to every such list of claimants posted or affixed as aforesaid shall be a notice signed by the Registering Officer, which notice shall be written both in the English and Dutch languages, and shall be in substance as set forth in Annexure (E) hereto.

*Registering Officer's Duty as to Objections.*

9. (1) At the time and place fixed by the notice mentioned in section eight, the Registering Officer shall, in every case where a person objected to is present, proceed to inquire into and decide upon every such objection made to him on the said day by the objectors personally or by their duly authorized agents; and on such occasion he shall give every person objected to an opportunity of being heard in answer to such objection; and may upon the application of any person objected to and present as aforesaid postpone the inquiry to a subsequent day if in his opinion good cause is shown for such postponement; provided always that if any such application for postponement be allowed the Registering Officer shall thereupon give notice to the objector or to his duly authorized agent, and to the person objected to, of the date and place (which shall be within his electoral division) on and at which the inquiry into the objection will be held or resumed.

(2) In every case where the person objected to is not present at the time and place fixed by the notice mentioned in section eight, the Registering Officer shall fix a date and place (which shall be within his electoral division) on and at which he shall inquire into and decide upon the objection, and shall give due notice of such place to the objector or to his duly authorized agent; and he shall further give to the person the subject of the objection due notice that an objection has been lodged, and of the time and place for the inquiry into such objection.

*Registering Officer's Duty after Claim Received.*

10. With regard to any claim lodged with the Registering Officer as aforesaid, either by transmission through the post or in any other manner, if the Registering Officer is satisfied that such claim has been duly signed, filled in, and witnessed, he shall add the name of the claimant to his provisional list; provided he has not allowed, in manner aforesaid, any objection lodged with him against such claim; and provided he is satisfied, after due inquiry, that the claim is bona fide, and that the claimant possesses the qualification required by law.

If not so signed, filled in, and witnessed, or if he has allowed an objection lodged against such claim, or if he is not satisfied that the claim is *bona fide*, and that the claimant possesses the said qualification, he shall disallow such claim.

*Printed Forms of Claims and Objections to be Distributed.*

11. The Colonial Secretary shall, a sufficient time before the preparation of the provisional lists as aforesaid, cause to be supplied to the Registering Officer of every electoral division an adequate number of printed forms of claim and objection as set forth in Annexure (C) hereto; and it shall be the duty of every Registering Officer to supply a reasonable number of such forms to any white resident of the electoral division who applies for them.

*Duties of Registering Officers after Claims and Objections dealt with.*

12. As soon as the Registering Officer shall have dealt with, and decided upon, the claims and objections as aforesaid, and shall or shall not have added names to, or expunged names from, the provisional list in accordance with such dealing or decision he shall—

- (a) Frame a complete alphabetical list of persons who shall in his judgment be entitled to be registered as voters within his electoral division. The list shall be in the form prescribed in Annexure (F) hereto;
- (b) Frame an alphabetical list of persons whose names have been removed from the provisional list by reason of the allowance of objections lodged against them, and of persons whose claims to have their names inserted in the list of voters have been lodged or handed in but have been disallowed. This list shall be in the form prescribed in Annexure (G) hereto;
- (c) Transmit to the Revising Officer hereinafter referred to the said two last-mentioned lists, and also transmit to him all the original claims and objections lodged with or handed in to him, whether such claims and objections have been allowed by him or not.

*Copies of Lists Posted Up.*

13. When transmitting the said lists and the said claims and objections to the Revising Officer, the Registering Officer shall cause copies of the said lists to be posted and affixed to the door of or in some conspicuous place near to his office or dwelling-house, or in some other public place or places within the electoral division, there to remain for general information between the hours of seven in the morning and five in the afternoon daily, during not less than fourteen days. Subjoined or affixed to every such list so framed, posted, or affixed, a notice shall be written signed by the Registering Officer, which notice shall be both in the English and Dutch languages and shall be in substance in the form prescribed in Annexure (H) hereto.

*Revising Officer.*

14. The Revising Officer for an electoral division shall be such person as the Governor in Council may by Proclamation in the *Gazette* appoint.

*Duty of Revising Officer on Receipt of Lists.*

15. On receipt of the two lists and of the original claims and objections, the Revising Officer shall, by notice in the *Gazette* and in some newspaper circulating in the electoral division, appoint a day on which he will attend at a stated place in such division, convenient to the voters, for the purpose of revising, amending, and settling the list of voters in such electoral division; the day so appointed shall be not less than fourteen days from the date of the first publication of such notice in the *Gazette*.

Such notice shall be published as often as the Revising Officer may deem to be necessary, and it shall in substance correspond with the form annexed set forth in Annexure (H) hereto, save that the place and date fixed for the attendance of the Revising Officer for revising the lists shall be expressly inserted. The Revising Officer shall post copies of the said lists and of the said notice in some conspicuous position at or near the door of the court house of the resident magistrate of the district in which such electoral division is situated, and at such other places therein as he may deem best for purposes of general information.

*Notice to Persons whose Names have been Disallowed by Registering Officers.*

16. The Revising Officer shall also forthwith give notice by letter posted through the Post Office, or delivered in such other manner as he may determine,

to all persons whose claims have been disallowed by the Registering Officer or whose names have been removed from the provisional list by reason of the allowance of objections made to them, and also to all persons who have objected in writing to the right of any person inserted in the said list to be so inserted, or to the right of any person claiming to have his name registered as a voter, to be so registered, and the Revising Officer shall notify the fact and the grounds for such rejection or removal in the case of claimants and persons objected to, and in all cases shall notify the place and date fixed for the holding of the Court of Revision as hereinafter provided.

*Procedure on hearing Claims and Objections and Settling Lists.*

17. Upon the day so notified as aforesaid the Revising Officer shall attend at the stated place and hold a court for the revision of the voters' list for the electoral division for which he is appointed; and it shall be lawful for any person whose claim has been disallowed by the Registering Officer, or whose name has been removed from the provisional list by reason of the allowance of an objection made to it, and for every person who has objected in writing to the right of any person inserted in the said list to be so inserted, or to the right of any person claiming to have his name registered as a voter to be so registered, and for any person who shall be so objected to to appear before the Revising Officer, who shall hear him, and, if he thinks fit, take evidence on oath.

*Powers of Revising Officer for Taking Evidence.*

18. The Revising Officer may, if he thinks fit, summon before him, and examine on oath, any person whom he shall, in the course of such inquiry, deem it necessary to examine, or may summon any person whom he has reasonable cause to believe is in possession of any document necessary for the purpose of such inquiry to produce such document, and may impose a fine not exceeding ten pounds on any person duly summoned who shall, without lawful cause, refuse or neglect to attend, or to produce any such document aforesaid, or to answer any question material to such inquiry; and he shall determine all matters brought before him, and revise and amend the voters' list according to law. The Revising Officer may adjourn his sitting from time to time. The Revising Officer shall transmit any such fine as is paid to him to a Receiver of Revenue, and shall certify under his hand particulars of any such fines not so paid to the resident magistrate or assistant resident magistrate of the district in which the Court of Revision is held, who shall thereupon recover such fines as if they were fines imposed in the court of any such magistrate.

*Person whose Name has been Removed or Claim Disallowed on Objection to it must prove his Qualification.*

19. Every person whose claim has been disallowed by the Registering Officer, or whose name has been removed from the provisional list by reason of the allowance of an objection made to it, shall be bound to prove his qualification to the satisfaction of the Revising Officer; and should he not appear either in person or by an agent specially authorized in writing, then the claim of such person shall be dismissed.

*When Objector, or Person objected to, does not Appear.*

20. If a person who has lodged a written objection with the Registering Officer which has not been allowed shall not, either in person or by an agent specially authorized in writing, appear to make good his objection, then such objection shall, without requiring any appearance or proof on the part of the person objected to, be dismissed. If such objector shall appear, and if the person objected to shall not appear in person, then, in case the objector or his agent (if he has appeared by agent) shall make oath that to the belief of the deponent such ground of objection does really exist, then the Revising Officer may, after forthwith inquiring into the grounds of such belief, either at once allow the objection or dismiss it, or make such further inquiry on a subsequent day as shall appear just, giving notice in every case of a further inquiry to the person objected to of the date and place when such inquiry shall be held.

*Costs.*

21. It shall be lawful for the Revising Officer, should it appear to him fitting so to do, to adjudge to any person objecting or objected to such reasonable costs.

against the adverse party as such Revising Officer shall tax and allow, and such costs shall be recoverable in the court of the resident magistrate of the district in which the revision is held in like manner as costs in a civil action in such court on production to such court of resident magistrate of the taxed bill of costs certified under the hand of the Revising Officer.

*Further Duties and Powers of Revising Officers.*

22. The Revising Officer shall, in revising the voters' lists, in addition to the powers conferred on him by the preceding sections hereof, perform the duties and have the powers following:—

- (1) He shall expunge the name of every person, whether objected to or not, whose qualification as stated in any list is, on the face of it, insufficient in law to entitle such person to be included therein unless after reasonable inquiry, he shall be satisfied that such person does possess the necessary qualification, and that his qualification on the said list is wrongly described, in which case he shall rectify the qualification as described on the said list; provided that before expunging from a list the name of any such person the Revising Officer shall cause fourteen days' notice of the proposal to expunge the name and the reasons therefor to be given or left at the address of such person as given on the said list.
- (2) He shall expunge the name of every person, whether objected to or not, who is proved to him to be dead or to be an alien; provided the notice required in sub-section (1) of this section be given to every such alien before his name is expunged.
- (3) Before proceeding with an inquiry into the validity of any objection he may call upon the person objecting to furnish security for the payment of any costs that he may be adjudged to pay.

*Persons whose Names appear on more than one List of Voters.*

23. No person shall be registered as a voter for more than one electoral division. Whenever it shall appear to the Colonial Secretary that any person is registered on the list of voters of more than one electoral division he shall cause inquiry to be made, and shall determine in which electoral division such person was bona fide residing at the date of the commencement of the registration of voters, and shall cause the name of such person to be expunged from the list of voters of every division in which it appears other than that of the division in which he was bona fide residing at the said date.

*Revising Officer may state Case for Opinion of a Judge in Chambers.*

24. If the nature of any claim or objection be such that the Revising Officer is doubtful regarding the decision proper to be given upon it, it shall be competent for him to draw up a statement of facts, and such statement shall be signed by such Revising Officer in attestation of its correctness, and be transmitted by him to the Registrar of the Supreme Court to be laid before a judge in chambers. The Revising Officer shall in like manner state a case for the decision of a judge in chambers at the request of any of the parties in any claim or objection, and such case when so stated shall be signed by the party at whose request it is stated, as well as by the Revising Officer.

*Procedure in such Cases.*

25. The judge before whom any such statement as aforesaid shall be laid, may, should the same appear to him defective, call for further information from the Revising Officer who transmitted it, and shall give such a decision as to him shall appear right and proper; the decision of such judge shall be final and conclusive, and not subject to any right of appeal or revision, and every register of voters affected by such decision shall be amended accordingly.

*Procedure by Revising Officer.*

26. The Revising Officer shall in all matters connected with the revision of the voters' list give his decision in open court and shall write his initials against every name struck out by him or added by him to any list and against every part of any list in which any material mistake has been corrected or material omission supplied and shall sign his name to every page of the list so settled,

and shall then write or cause to be written at the foot or end of each list a certificate that the same has been revised and is correct and shall date and sign such certificate.

*Final Lists.*

27. The lists so settled, certified, dated, and signed as aforesaid shall be the complete final registers of voters and shall be forwarded by the Revising Officer to the Colonial Secretary, who shall cause to be made therefrom a complete register of voters for each electoral division in the form prescribed in Annexure (I) hereto.

*Framing of Provisional List at subsequent Registration of Voters.*

28. It shall be the duty of the Registering Officer in framing the provisional list of voters at any registration of voters after the registration made under this part of this Schedule to insert therein—

- (1) The names of all persons on the existing register of voters within each electoral division, except the names of such persons who on the day upon which registration of voters shall commence to the best of his knowledge and belief—
  - (a) are dead ;
  - (b) do not reside in the said division ;
  - (c) do not possess the qualification required by law ;
  - (d) are subject to any disqualification.
- (2) The names of all persons not on the existing register of voters who possess, to the satisfaction of the Registering Officer, the necessary qualifications to have their names inserted on the list of voters for such electoral division.

*Power of Registering Officer to demand Information concerning Voters from Officials.*

29. In the performance of his duty every Registering Officer shall have the power and is hereby required to demand all necessary information from any Registrar of Births and Deaths, member of any police force or any other public official, the town clerk of any municipality, the manager or secretary of a mining company, or any other employer of labour, so as to enable him to identify any person or to ascertain the residence of any person or whether he is dead or whether he is qualified or disqualified to be registered as a voter, and any person who shall wilfully omit, or refuse, or unreasonably delay to give such information in his power as he is asked by any Registering Officer to give shall be liable on conviction to a fine not exceeding ten pounds, and, in default of payment, to imprisonment with or without hard labour for a period not exceeding one month.

*Penalties.*

30. If any Registering or Revising Officer, or any officer employed in connection with the registration of voters, shall be guilty of any wilful misfeasance or wilful negligence, either in commission or omission in contravention of the provisions of this Schedule, or any regulations made or instructions given thereunder, he shall be liable upon conviction to a fine not exceeding fifty pounds, and, in default of payment, to imprisonment with or without hard labour for any period not exceeding six months.

*Offences by Officers employed in Registration of Voters.*

31. If, in the opinion of the Colonial Secretary, any Registering Officer or Revising Officer or any other officer employed in connection with the registration of voters has been guilty of any wilful act or default contrary to the provisions of this Schedule or any regulations made or instructions given thereunder, the Colonial Secretary may by writing under his hand, after calling upon any such officer to furnish any explanation he may think fit personally or in writing, and after considering such explanation, advise the Governor to declare forfeited under this section the whole or any portion of the remuneration payable to such officer for services performed under the provisions of this Schedule, and the Governor may thereupon declare the whole or part of such remuneration forfeited.



*Penalty for False Statements in Claims.*

32. Every person who knowingly makes any false statement of fact in any claim sent in by him to the Registering Officer to be registered as a voter shall be liable, on conviction, to a fine not exceeding one hundred pounds, and, in default of payment, to imprisonment, with or without hard labour, for a period not exceeding twelve months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

*Offences relating to Procuring Registration.*

33. Every person who shall by himself or any other person instigate, procure, or attempt to procure or take part in procuring the registration—

(i) Of himself or any other person

(a) as a voter in or for more than one electoral division; or

(b) as a voter more than once in the same electoral division; or

(c) knowing that he or such other person has not the qualification required by law for such registration;

(ii) Of a fictitious person;

shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the offence of personation.

*Voters' Lists not invalidated by reason or certain Omission.*

34. No voters' list shall be invalidated by reason that it shall not have been affixed in every place and for the full time hereinbefore required; but nothing herein contained shall be construed to exempt the Registering Officer or other person charged with the duty of publishing such list as aforesaid from the penalties prescribed for his neglect or wilful default.

*Written Authorizations not liable to Stamp Duty.*

35. Anything in the Stamp Duties Amendment Proclamation, 1902, or any amendment thereof notwithstanding, no stamp duties shall be charged upon any declaration made or any authorization in writing issued for the purposes of any provision of this Schedule relating to registration of voters or revision of voters' lists.

*Rectification of Omissions.*

36. If, through any accident, anything required by law to be done in the preparation or transmission of any voters' list is omitted to be done, the Governor may order such steps to be taken as may be necessary to rectify any such omission, and he may from time to time alter any form hereto annexed in such manner as may be necessary for the better carrying out of the provisions of this Schedule.

## PART II.

*Elections of Members of Legislative Assembly.*

37. Part II of this Schedule shall apply to all elections of members of the Legislative Assembly constituted under these Letters Patent, and any election of a member of such Legislative Assembly shall take place in the manner hereinafter prescribed.

*Nomination of Candidates for the Legislative Assembly and Proceedings thereupon.*

38. (1) Upon a day named in a Proclamation by the Governor the person appointed by the Governor in Council in that behalf (hereinafter referred to as the Returning Officer) shall hold a place stated in the said Proclamation a public court for the nomination of persons proposed as members of the Legislative Assembly for the electoral division mentioned therein; and every such person shall be nominated by some registered voter for such division, and such nomination shall be seconded by some other such voter.

(2) In case it shall happen that only one person is nominated as aforesaid; then the person so nominated shall forthwith be declared to be duly elected, but in case the number of persons so nominated is more than one the Returning Officer shall fix a date upon which a poll shall be taken for the election of a member

of the said electoral division, not being less than five clear days from the day of nomination (subject to the provisions hereinafter contained in this section), and the poll shall take place accordingly, and shall commence at eight o'clock in the morning and close at eight o'clock in the evening. The Returning Officer shall forthwith give public notice of such date in some newspaper circulating within the electoral division, and at such conspicuous places in such division as he may deem necessary for giving information of such polling.\*

† (3) Before fixing a day on which a poll shall be taken under the last preceding sub-section, the Returning Officer shall require of every person nominated as aforesaid a deposit of fifty pounds, for such security for the said sum as the Returning Officer may deem sufficient, and out of such sum there shall be paid a *pro rata* share of the expenses mentioned in section forty-one hereof. In no case shall such *pro rata* share exceed the amount of such deposit or security as aforesaid.

In case any person so required shall not forthwith deposit such sum or give security as aforesaid, he shall be deemed and taken not to be nominated as a candidate for an election.

(4) At any general election of members of the Legislative Assembly the date of the nomination of persons proposed as members thereof shall be the same in each electoral division of the Colony, and all polls shall be taken on the same day in all electoral divisions situated within the Witwatersrand magisterial district and the area consisting of Pretoria municipality and suburbs.

#### *Division of Electoral Divisions into Polling Districts.*

‡ 39. (1) The Governor may, by Proclamation in the *Gazette* divide any electoral division into so many polling districts as he may deem necessary for more conveniently carrying out the provisions of this part of this Schedule, and may in like manner from time to time and for like purposes increase or decrease the number of such districts, or alter or adjust the boundaries thereof.

(2) Whenever any electoral division has been divided into polling districts, or any increase, decrease, alterations, or adjustment of such districts has been made under the powers of this section, the Colonial Secretary shall take all steps that may be necessary for the purpose of compiling from the register of voters of the electoral division a register of voters for each polling district, consisting of the voters of the electoral division resident in such polling district.

#### *Polling Stations.*

40. For the purposes of the poll to be taken as aforesaid, there shall be one polling station at a convenient place to be determined by the Governor in Council within each electoral division, or if an electoral division is divided into polling districts, then within each such polling district. Notice shall be given to the Returning Officer not later than the day of nomination of the place where every polling station shall be, and such notice shall be published in some newspaper circulating in the electoral division, and in such other manner as the Governor may prescribe. The determination of the Governor in Council as to the place of polling stations shall be notified by the Colonial Secretary in the *Gazette*.

#### *Election Arrangements.*

§ 41. For all elections the Returning Officer shall provide such compartments, desks, ballot boxes, papers, stamping instruments, copies of register of voters, and other things, appoint presiding officers and polling officers, and do such other acts and things and make such arrangements to facilitate the taking of the poll as he may deem advisable for effectually conducting the election. Everything done by the Returning Officer under this section shall be in the first instance paid by the Colonial Treasurer, who shall recover from each candidate for election his *pro rata* share of any such expenses as hereinbefore provided, exclusive of the initial expenditure incurred in providing such compartments, desks, ballot boxes, and stamping instruments aforesaid.

\* For form of notice of polling, see Govt. Notice No. 100 of 1907.

† For form of bond to be given by candidates, see Govt. Notice No. 99 of 1907.

‡ See Proclamation No. 10 (Admn.) of 1907.

§ For general instructions and regulations for Returning Officers, see Govt. Notice No. 134 of 1907.

*Presiding Officer at Polling Station.*

\* 42. The Presiding Officer and other officers at the polling station shall keep order thereat, shall regulate the number of voters to be admitted at a time, and shall exclude all other persons except the Returning Officer, the clerks, the agents of the candidates, and the constables on duty.

*Retirement of Candidate from Contest.*

43. If after a poll has been appointed at any election any candidate nominated for election shall be desirous of retiring from the candidature, he may, not later than three days before the day of polling, sign and deliver a notice of his retirement to the Returning Officer, who on receipt thereof, shall, if the number of candidates is by such retirement reduced to one, declare the remaining candidate to be on that day duly elected; and if the said number is not so reduced, shall omit the name of the person so retiring from the list of candidates, and such person shall not be capable of being elected at such election.

*Candidate's Agents.*

44. Every candidate may, if he think fit, appoint by writing under his hand, a person to represent him at the polling station to see that the votes are fairly taken, and may also appoint in writing an agent to represent him at the counting of the votes by the returning officer.

45. No person whose name is not inserted in the register of voters for an electoral division shall be permitted to vote in such division for any member of the Legislative Assembly, nor shall any person be permitted to record his vote elsewhere than at the polling station of such division, or if such division is divided into polling districts, elsewhere than at the polling station of such polling district for which he is registered as a voter, save as in this section provided; provided always that such register for the time being shall for all purposes be deemed and taken to be conclusive proof of the right to vote in such electoral division or polling district of every person whose name is inserted therein; provided further, that if an electoral division is divided into polling districts such person shall be permitted to vote at a polling station in the electoral division for which he is registered other than the polling station of the polling district for which he is registered, if before voting he shall sign a declaration in a form to be prescribed by the Governor and notified by the Colonial Secretary in the *Gazette*. † All such declarations may be taken by the presiding officer of the polling station at which such person desires to vote, and shall be kept by him and forwarded to the Returning Officer, and shall be open to inspection by the public at all reasonable times. No stamp duty shall be payable on any such declaration.

*Enquiries as to Right to Vote.*

46. No enquiry shall be made at any election as to the right of any person to vote, except that the presiding officer may, himself, at the request of the agent of any candidate, put to any voter the following questions, or any of them, and no other—

- (1) Are you the person whose name appears as *A. B.* on the register of voters in this division?
- (2) Have you already voted at this election in this or any other electoral division?

And no person who shall refuse to answer any such question, or who shall not answer the first of such questions in the affirmative and the second of such questions absolutely in the negative shall be permitted to vote.

*Penalty for False Answers.*

47. Any person who shall wilfully make a false answer to any of the questions in the last preceding section shall be liable, on conviction, to a fine not exceeding fifty pounds, and in default of payment, to imprisonment, with or without hard labour, for a period not exceeding three months.

*One Vote to be given by each Voter.*

48. Every voter shall be entitled to give at any election only one vote.

\* For general instructions and regulations for Presiding Officers, see Govt. Notice No. 98 of 1907.

† For form of declaration, see Govt. Notice No. 101 of 1907.

*Manner of Voting.*

49. The voting at all elections held under this Schedule shall be by ballot, which shall be conducted in substance, and as nearly as possible in the manner hereinafter prescribed :—

- (i) The Presiding Officer at the polling station shall, save as in section *forty-five* is provided, ascertain that the person coming to vote is a person enrolled upon the register of voters for the electoral division or polling district in which the poll is being held, and having ascertained that such person is so enrolled, and his number on such register, shall enter his number upon the counterfoil in the ballot paper book, and shall then tear out the ballot paper corresponding to such counterfoil, and having stamped the same with a perforated stamp provided for that purpose, shall hand it to the voter. And every ballot paper shall be in the form from time to time prescribed by the Governor and notified by the Colonial Secretary in the *Gazette*\*.
- (ii) When the voter has received such ballot paper, on which shall be printed in alphabetical order the names of all the duly nominated candidates at such election, he shall take the same to the compartment and desk provided for that purpose and shall signify the candidate for whom he desires to vote by secretly placing a cross opposite the name of such candidate. He shall then fold the ballot paper so that the perforated mark may be visible, and having held up the ballot paper so that the Presiding Officer can recognize the perforated mark, shall drop the ballot paper in the ballot box placed in front of the Presiding Officer.
- (iii) Should the voter either sign his name on the ballot paper or make any mark or write any word by which his ballot paper would become recognizable, then such voting paper shall be considered blank and not taken into account.

*Spoiled Ballot Papers.*

50. If a voter inadvertently spoils a ballot paper he may return it to the Presiding Officer, who shall, if satisfied of such inadvertence, give him another paper and retain the spoiled paper, and the spoiled paper shall be immediately cancelled, and the fact of such cancellation shall be noted upon the counterfoil.

*Voters Incapacitated by Blindness or other Physical Cause.*

51. The Presiding Officer, on the application of any voter who is unable to read, or who is incapacitated by blindness or other physical cause, from voting in manner prescribed by this Schedule shall, before such agents of the candidates as may be present, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the register of voters of every person whose vote is marked in pursuance of this section ; and the reason why it is so marked shall be entered on a list hereinafter called the "List of votes marked by the Presiding Officer."

*Tendered Ballot Papers.*

52. If a person representing himself to be a particular voter applies for a ballot paper after another person has voted in his name, the applicant shall, upon duly answering the questions permitted by this Schedule to be asked of voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (hereinafter called a "Tendered ballot paper") shall not be put in the ballot box, but shall be given to the Presiding Officer and endorsed by him with the name of the voter and his number on the register of voters and set aside in a separate packet, and shall not be counted by the Returning Officer ; and the name of the voter and his number on the register aforesaid shall be entered in a list hereinafter called the "Tendered votes list."

*Sealing up of Ballot Boxes, etc.*

53. Every Presiding Officer, as soon as practicable after the close of the poll, shall, before such of the agents aforesaid as may be present, make up into separate packets sealed with his own seal and the seals of such agents aforesaid as desire to affix their seals—

\* For form of ballot paper, see Govt. Notice No. 102 of 1907.

- (1) Each ballot box intrusted to him unopened, but with the key attached ;
- (2) The unused and spoiled ballot papers placed together ;
- (3) The tendered ballot papers ;
- (4) The marked copies of the register of voters and the counterfoils of the ballot papers ;
- (5) The "Tendered votes list" and the "List of votes marked by the Presiding Officer," and a statement of the number of voters whose votes are so marked by the Presiding Officer under the head "physical incapacity" ;

and shall deliver such packets to the Returning Officer.

The packets shall be accompanied by a statement made by each Presiding Officer, showing the number of ballot papers intrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoiled, and tendered ballot papers.

*Declaration of Poll.*

\* 54. Upon receipt of the aforesaid packets from such Presiding Officer by the Returning Officer the latter shall take charge of the same and shall, in the presence of such agents aforesaid as may be in attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare the candidate who has the greater or greatest number of votes to be duly elected a member of the Legislative Assembly for the electoral division in which the poll was held. In the event of the number of votes being found to be equal the Returning Officer shall by lot immediately determine the election. The decision of the Returning Officer shall be final, subject to reversal on petition to or action in the Supreme Court praying that the election be set aside.

*What Ballot Papers shall be Rejected.*

55. The Returning Officer shall reject and not count any ballot papers which

- (1) Do not bear the official mark ;
- (2) Give votes to more than one candidate ;
- (3) Bear any writing or mark by which a voter can be identified otherwise than is in this Schedule prescribed ;
- (4) Are unmarked or void for uncertainty.

*Marking of Rejected Ballot Papers.*

56. The Returning Officer shall endorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the endorsement "rejection objected to" if an objection be in fact made by or on behalf of any candidate to his decision.

*Sealing up of Papers by Returning Officer.*

57. The Returning Officer shall immediately after the declaration of the poll enclose in separate packets the counted and rejected ballot papers. He shall not open any sealed packet of tendered ballot papers or marked copy of the list of voters and counterfoils, but shall proceed before the candidates or such agents aforesaid as are present to re-seal after examination each of the sealed packets received by him from the Presiding Officers. All the packets aforesaid, together with a certificate stating the name of the member declared to be elected, shall be enclosed together in one sealed packet and delivered to the Colonial Secretary who shall safely keep such sealed packet for six months, after the expiration whereof the said packet and all papers contained therein may be destroyed.

*Sealed Papers to Remain Unopened.*

58. No such sealed packet as aforesaid shall be opened during the said period of six months except by order of the Supreme Court or any Judge thereof ; and if any person shall, contrary to the provisions hereof, wilfully break the seal or open any such packet, he shall, upon conviction, be liable to a fine not exceeding fifty pounds, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding three months.

*Immaterial Mistakes not to affect Validity of Election.*

59. No election shall be declared invalid by reason of any mistake or non-compliance with the terms of this Schedule if it appears to the Court having

<sup>a</sup> For regulations and instructions as to counting of votes, see Govt. Notice No. 134 of 1907.

cognizance of the matter that the election was conducted in accordance with the principles laid down in this Schedule, and that such mistake or non-compliance did not affect the result of the election.

*Returning Officer to Transmit Names of Persons Elected to Colonial Secretary.*

60. As soon as the Returning Officer shall have declared a candidate to be duly elected a member of the Legislative Assembly for an electoral division, he shall, without delay, transmit to the Colonial Secretary the name of the person declared duly elected, and the number of votes received by the respective candidates.

*Names of Members to be Published.*

61. As soon as the Colonial Secretary shall have received from the several Returning Officers throughout the Colony the names of the persons declared duly elected for the several electoral divisions as members of the Legislative Assembly, he shall cause to be published by notice in the *Gazette* the names of the members returned, together with the electoral divisions which they severally represent.\*

*Vacancies, how Filled.*

62. When, and as often as a vacancy shall by death, resignation, or other cause occur in the representation in the Legislative Assembly of any electoral division, the Governor shall, as soon as he is duly informed of such vacancy, and the cause or causes thereof, by Proclamation in the *Gazette* order in like manner *mutatis mutandis* as is hereinbefore enjoined in regard to other elections under this Schedule a new election for supplying such vacancy; and the like proceedings shall *mutatis mutandis* take place in regard to elections for supplying vacancies as are hereinbefore prescribed in regard to other elections under this Schedule.

*Procedure upon any General Election by Dissolution.*

63. Whenever by reason of any dissolution of the Legislative Assembly there shall be a general election of the members thereof then the like Proclamation or Proclamations *mutatis mutandis* shall be issued by the Governor, and the like proceedings *mutatis mutandis* be had and taken in regard to any such election as are hereinbefore directed in regard to other elections under this Schedule.

*Provisions in case same Person elected for more than one Electoral Division.*

64. In case the same person shall have been declared duly elected for more than one electoral division such person shall be bound, upon being thereto required by the Governor, to decide which electoral division he will represent, and upon such decision the Governor shall, by Proclamation, command the Returning Officer of any other electoral division for which such person shall have been returned to proceed to the election of another person in the room and stead of the person so originally elected, and thereupon the like proceedings shall take place as are hereinbefore directed in regard to the original election; and if such person shall fail to make his decision as aforesaid when thereto required then his election for every electoral division for which he shall have been elected shall be deemed to be null and void; and by Proclamation as aforesaid a new election for a member in place and instead of such person shall be commanded in regard to every such division.

*Electoral Expenses.—Illegal and Corrupt Practices.—Hearing of Election Petitions.*

65. The provisions of Chapters VIII to XI inclusive of "The Municipalities Elections Ordinance, 1903," as amended from time to time, shall *mutatis mutandis* apply in respect of elections under this Schedule, and such provisions shall be deemed to be incorporated herein, with the following exceptions:—

- (1) The expenses of a candidate shall not be limited as in sub-section (10) of section sixty and as in section sixty-one of the said Ordinance is provided.
- (2) The limit to the electoral expenses of each candidate allowed in respect of any election shall be two hundred pounds for one thousand names on the register of voters of the electoral division for which he is a candidate, and twenty-five pounds for each five hundred such names over and above such one thousand names.

\* See Govt. Notice No. 248 of 1907.

And wherever in the said Chapters the expressions "Councillor," "Municipality," "Ordinance," or "Lieutenant-Governor" are used, such expressions shall for the purpose of this Schedule be read respectively as "Member of the Legislative Assembly," "Electoral Division," "Second Schedule of the Transvaal Constitution Letters Patent, 1906," and "Governor."

*Power to make Regulations and give Instructions.*

\* 66. The Governor in Council may from time to time make, alter, or repeal Regulations, and give instruction not inconsistent with the provisions of this Schedule for the better carrying out of the objects and purposes thereof, and all such Regulations shall be notified in the *Gazette* by the Colonial Secretary.

ANNEXURE (A) TO SCHEDULE 2.

*Form of Notice under Section Two.*

Magisterial District of.....

Notice is hereby given to the inhabitants of the several electoral divisions within the Magisterial District of..... that the Registering Officers will now commence, in accordance with the provisions of section two of Schedule 2 annexed to the Transvaal Constitution Letters Patent, 1906, to make out in and for each electoral division a provisional list of all persons entitled to vote at elections of members for the Legislative Assembly.

In order to secure the most complete list possible, and to prevent danger of exclusion of qualified persons from the list, all persons claiming to be entitled to have their names placed on the said list are invited either to send in their claims to the respective Registering Officers, or to ascertain whether their names have been placed upon the Provisional List on or before the date fixed for the completion of such list.

The Registering Officers for the several electoral divisions of this district are those named at the foot hereof.

Dated this.....day of....., 190..

(Signed).....

*Colonial Secretary.*

ANNEXURE (B) TO SCHEDULE 2.

*Notices to be subjoined or annexed to Provisional List of Voters and posted under Section Five.*

*Notice of Claims and Objections.*

Electoral Division .....  
of the Magisterial District of.....

Notice is hereby given that if any person whose name is not inserted in the above list shall claim to have his name inserted therein, then any such claimant may, at any time before the .....day of.....190.., lodge with the Registering Officer at.....either by transmission through the post or in some other manner, his claim to be registered as a voter, which claim shall be in writing and in substance in the form annexed to this notice, in order that such claim may be considered and dealt with as the law directs.

And if any person shall object to the right of any other person whose name is inserted in the above list to have his name so inserted, then every such objector may attend personally or by an agent authorized in writing at.....on the.....day of.....190.., and lodge his objection, which shall be in writing and in substance in the form annexed to this notice, in order that such objection may be considered and dealt with as the law directs.

Blank forms of claim and of objection may be obtained upon application to the undersigned.

.....  
*Registering Officer.*

Dated this.....day of....., 190..

\* For regulations as to duties of Presiding Officers and instructions to voters, see Govt. Notice No. 98 of 1907. For regulations and instructions for Returning Officers, see Govt. Notice No. 134 of 1907

ANNEXURE (C) TO SCHEDULE 2.

*Claim to be Registered as a Voter.*

Electoral Division.....Magisterial District of.....

Name in full.	Claim to be a British Subject.	Age.	Period of Residence in the Transvaal.	Present Residence and Postal Address.	Profession, Trade, Occupation or other description.

I, the undersigned, hereby declare that, to the best of my knowledge and belief, the particulars above given are correct.

Signature of Claimant.....

Postal address of Claimant.....

As witness : Date .....

Signature of Witness.....

Postal address of Witness.....

*Form of Objection to the Registration of a Voter.*

To the Registering Officer appointed to make out the List of Voters in the Electoral Division..... in the Magisterial District of.....

Please take notice that I object to the name of..... being retained on the List of Voters in the above electoral division, and that I shall support my objection at the time fixed by law for that purpose—the ground of my objection being [*here state the ground of objection*].

Dated the.....day of.....190..

(Signed) ..... of [*here state place of residence*].

As witness :

ANNEXURE (D) TO SCHEDULE 2.

Electoral Division.....Magisterial District of.....

List of persons not included in the Provisional List of Voters already framed and posted who have lodged their claims to be placed upon the List of Voters in the above electoral division for the Election of Members of the Legislative Assembly.

Dated this.....day of....., 190..

(Signed).....

Registering Officer.

Name in full.	Age.	Residence and Postal Address.	Occupation, Trade, Profession or other description.



ANNEXURE (E) TO SCHEDULE 2.

Electoral Division.....Magisterial District of.....

*Notice to be annexed to the List of Claimants under Section Eight.*

Notice is hereby given that if any person shall object to the right of any other person whose name appears in the above List of Claimants, or whose name is inserted in the Provisional List of Voters affixed by the Registering Officer, to have his name registered as a voter in the above electoral division, then every such objector may attend personally, or by an agent authorized in writing, at .....on the.....day of....., 190., and lodge his objection, which shall be in writing and in substance in the form annexed hereto, in order that such objection may be considered and dealt with as the law directs.

Blank forms of objection may be obtained upon application to the undersigned.

Dated this.....day of....., 190..

(Signed).....  
Registering Officer.

ANNEXURE (F) TO SCHEDULE 2.

List of persons appearing to be qualified to vote at the Election of Members of the Legislative Assembly in Electoral Division..... of the Magisterial District of.....

Dated this.....day of....., 190..

(Signed).....  
Registering Officer.

Name in full.	Residence and Postal Address.	Occupation, Trade, Profession, or other description.

ANNEXURE (G) TO SCHEDULE 2.

*List of Rejected Claims.*

Electoral Division.....Magisterial District of.....

List of persons whose names have been removed from the Provisional List of Voters for the above electoral division by reason of the allowance of objections lodged against them; and of persons whose claims to be placed upon the List of Voters have been lodged or handed in but not allowed.

.....day of....., 190..

(Signed).....  
Registering Officer.

Name in full.	Occupation, Trade, Profession, or other description.	Residence and Postal Address.	Reason for allowing the Objection or disallowing the Claim.

ANNEXURE (H).

*Notice to be annexed to the Lists and posted up under Section Thirteen.*

Notice is hereby given that the Revising Officer will attend at a place and on a day to be notified by publication in the *Gazette* and in a newspaper circulating in the Magisterial District for the purpose of finally revising, amending, and settling the Voters' Lists for the Electoral Division of..... in the Magisterial District of..... All person whose claims have been disallowed by the Registering Officer, or whose names have been removed from the Provisional List by reason of the allowance of objections made to them, and all persons who have objected in writing to the right of any person inserted in the said Provisional List to be so inserted, or to the right of any person claiming to have his name registered as a voter to be so registered, and all persons who have been so objected to may appear before the Revising Officer on the day and place aforesaid for the purpose of establishing their said claims or objections. All claimants and objectors must appear either personally or by an agent specially authorized in writing.

Dated this.....day of....., 190...  
 (Signed).....  
 Registering Officer.

ANNEXURE (I) TO SCHEDULE 2.

Electoral Roll of persons registered in the Electoral Division of..... as qualified to vote for the Election of Members of the Legislative Assembly.  
 Dated this.....day of....., 190..

(Signed).....

Name in full.	Residence and Postal Address.	Occupation, Trade, Profession, or other description.

SCHEDULE 3.

*Regulations for the Redivision of the Colony for Electoral Purposes.*

(See Section XV.)

1. The total number of voters, as ascertained from the list framed under "The Transvaal Constitution Order in Council, 1906," divided by sixty-nine, shall be the quota of voters for the Colony.

2. If the total number of voters, as shown by the list of voters on which the redivision is to be made, exceeds the total number of voters, as ascertained from the list framed under "The Transvaal Constitution Order in Council, 1906," by an amount equal to the quota of voters for the Colony, or some whole multiple thereof, the number of electoral divisions shall be increased over and above sixty-nine by one, or by a number equal to such multiple, as the case may be; provided that the number of electoral divisions shall in no case exceed seventy-five, and shall not be less than the number existing at the date of such redivision.

3. In dividing the Colony into electoral divisions, the Commissioners shall ascertain the number of voters, as shown by the lists on which a redivision is to be made, in each of the following areas:—

- (a) The Witwatersrand Magisterial District as at present defined;
- (b) Pretoria Urban, which shall include the whole of the area to which six members have been allotted in the First Schedule of the Letters Patent;
- (c) The area consisting of the whole of the Colony, after excluding therefrom the areas mentioned in (a) and (b);

and shall allot to each such area a number of members of the Legislative Assembly proportionate to the number of voters therein. The quotient obtained by dividing the number of voters in each such area by the number of members to which it is entitled, is hereinafter referred to as the quota of voters for the area.

4. The Commissioners shall thereupon proceed to allot, in manner hereinafter prescribed, a number of members to each of the magisterial districts at present existing, and as at present defined, situated in the area mentioned in sub-section (c) of the last preceding regulation [and for this purpose the Magisterial District of Pretoria shall consist of the said district as at present defined, less the area mentioned in sub-section (b) of the last preceding regulation], and to each of the five parts (hereinafter referred to as an equivalent part) into which the Witwatersrand Magisterial District has been divided by the Commissioners mentioned in section *eight* of the Letters Patent.

5. If the number of voters in any such magisterial district, or equivalent part, as aforesaid, is less than one-half the quota of voters for the area as above defined, no member shall be returned by such district or part, but it shall be included in such adjoining district or part as the Commissioners may determine for the purpose of allotting the number of members to be returned by such adjoining district or part, in accordance with the principles laid down in the following regulations.

6. If the number of voters in such magisterial district or equivalent part, as aforesaid, is not less than one-half the quota of voters for the area, but less than one and a half times such quota, one member of the Legislative Assembly shall be returned by such district or part.

7. If the number of voters in any such district or part as aforesaid is not less than one and a half times the quota of voters for the area, it shall return two members; if not less than two and a half times such quota, three members; if not less than three and a half times such quota, four members, and so on in like manner and proportion; provided that the total number of members allotted to the several magisterial districts or parts, situated within any area mentioned in regulation 3, shall not be greater nor less than the number of members allotted to such area as provided in that regulation; and if such first-mentioned number of members be greater or less than the second-mentioned number of members, the Commissioners shall rectify such inequality by reducing or increasing, as the case may be, the number of members allotted to such of the several districts or parts within such area as in the opinion of the Commissioners ought to be reduced or increased, while giving the nearest possible effect to the principles laid down in the preceding regulations.

8. The Commissioners shall divide each magisterial district included in the area mentioned in sub-section (c) of regulation 3 (and for this purpose, the Magisterial District of Pretoria shall be the district as at present defined less the area described as Pretoria Urban in the said regulation), and each equivalent part as above defined and also the area described as Pretoria Urban, into as many electoral divisions as there are members allotted to such district, part, or area respectively.

In making such division the Commissioners shall follow the instructions mentioned in sub-sections (1), (2) and (3) of section *three* of the **First Schedule** hereto.

9. If there shall be in any magisterial district situated in the area mentioned in sub-section (c) of regulation *three* a municipality, within the boundaries of which there shall be a number of voters equal to the quota for the said district or any whole multiple thereof, an electoral division or a number of electoral divisions, equal to such multiple, as the case may be, shall be included in such municipality, each containing (due regard being had to the considerations above mentioned) a number of voters equal to such quota; and such portion of the municipality as shall not be included in such electoral divisions shall be included in the electoral division adjoining such municipality. If the number of voters in any such municipality shall not be equal to the quota for the district, the whole of such municipality shall be included in one electoral division.

#### SCHEDULE 4.

#### *Charges on Consolidated Revenue Fund.*

(See Section LVIII.)

The Governor, £8000.

The Judges of the Supreme Court, £22,000.

Any sums payable out of the revenues of the Colony to the Inter-Colonial Council, under the provisions of the Order in Council, dated the 20th day of May, 1903, and entitled "The Inter-Colonial Council South Africa Order in Council, 1903," and under the provisions of any Order or Orders in Council from time to time amending or substituted for the same until such time as the said Council shall cease to exist.

SCHEDULE 5.

*Pensions to Retired Officers.*

(See Sections LVIII and LX.)

- The Honourable Sir Richard Solomon, K.C.B., K.C.M.G., K.C., Attorney-General, £1000.
- Patrick Duncan, Esq., C.M.G., Colonial Secretary, £450.
- Sir Godfrey Lagden, K.C.M.G., Commissioner of Native Affairs, £450.
- Adam Jameson, Esq., Commissioner of Lands, £300.

SCHEDULE 6.

(See Section LXIV.)

NATURE OF INSTRUMENT.	DATE.
Letters Patent .. .. .	September 23, 1902.
Letters Patent .. .. .	March 31, 1905.
"Transvaal Constitution Order in Council, 1905" ..	March 27, 1905.
Proclamations under the "Transvaal Constitution Order in Council, 1905"	No. 48 of June 1, 1905 ; No. 104 of October 18, 1905.
Royal Instructions to Governor .. .. .	September 23, 1902.
Royal Instructions to Governor .. .. .	May 13, 1905.

## GOVERNOR'S LETTERS PATENT

*Passed under the Great Seal of the United Kingdom, constituting the Office of Governor and Commander-in-Chief of the Transvaal.*

*Letters Patent dated 6th December, 1906.*

Edward the Seventh, by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India; To all to whom these Presents shall come, Greeting.

*Recites Letters Patent of the 23rd September, 1902.*

Whereas by Our Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster the 23rd day of September, 1902, We did constitute the Office of Governor and Commander-in-Chief of Our Colony of the Transvaal, and did provide for the Government of Our said Colony:

And whereas We are minded to make further provision for the Government of Our said Colony:

Now know ye that We do declare Our Will and Pleasure to be as follows:—

*Appointment of Governor.*

I. There shall be a Governor and Commander-in-Chief in and over Our Colony of the Transvaal and appointments to the said Office shall be made by Commission under our Sign Manual and Signet.

*Limits of Colony.*

II. Our Colony of the Transvaal (hereinafter called the Colony) shall comprise all places, settlements, and territories which formed part of the territories of the South African Republic at the date when the said territories were annexed to and became part of Our Dominions, save and except the districts known as Vryheid and Utrecht, together with certain parts of the district of Wakkerstroom which have been included within the limits of Our Colony of Natal.

*Governor's Powers and Authorities.*

III. We do hereby authorize, empower, and command Our said Governor and Commander-in-Chief (hereinafter called the Governor), to do and execute all things that belong to the said Office of Governor according to the tenor of these and any other Our Letters Patent, having effect within the Colony, and of such Commission as may be issued to him under Our Sign Manual and Signet, and according to such

Instructions as may from time to time be given to him under Our Sign Manual and Signet or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such laws as are now or shall hereafter be in force in the Colony.

*Publication of Governor's Commission. Oaths to be taken by Governor. Imperial Act, 31 and 32 Vict., c. 72.*

IV. Every person appointed to fill the Office of Governor shall, with all due solemnity, before entering on any of the duties of his Office cause the Commission appointing him to be Governor to be read and published in the presence of the Chief Justice of the Colony or of some other Judge of the Supreme Court, and such of the members of the Executive Council of the Colony who can conveniently attend, which being done, he shall then and there take before them the Oath of Allegiance in the form provided by an Act passed in the Session holden in the Thirty-first and Thirty-second years of the Reign of Her late Majesty Queen Victoria, intituled "An Act to amend the Law relating to Promissory Oaths"; and likewise the usual Oath for the due execution of his Office, and for the due and impartial administration of justice, which Oaths the said Chief Justice or Judge is hereby required to administer.

*Public Seal.*

V. The Governor shall keep and use the Public Seal of the Colony for sealing all things whatsoever that shall pass the said Seal.

*Executive Council.*

VI. There shall be an Executive Council in and for the Colony, and the said Council shall consist of such persons being Ministers or other persons as the Governor shall, from time to time in Our name and on Our behalf, but subject to any law of the Colony, appoint under the Public Seal of the Colony, to be members thereof. Subject to any such law the members of the Executive Council shall hold office during Our pleasure. Provided that the members of the Executive Council existing at the commencement of these Our Letters Patent may if the Governor thinks fit continue to hold office until the appointment of Ministers.\*

*Grant of Lands.*

VII. The Governor may, in Our name and on Our behalf, make and execute, under the Public Seal, grants and dispositions of any lands within the Colony which may be lawfully granted or disposed of by Us.

*Appointment of Officers.*

VIII. The Governor may constitute and appoint in Our name and on Our behalf all such Officers in the Colony as may be lawfully constituted or appointed by Us.

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\* See Government Notice No. 46 of 1907 (*Gazette*, 14/1/07).

*Suspension or Removal from Office.*

IX. The Governor may, so far as We ourselves lawfully may, upon sufficient cause to him appearing, remove from his office, or suspend from the exercise of the same, any person holding any office or place within the Colony under or by virtue of any Commission or Warrant or other Instrument granted, or which may be granted, by Us or in Our name or under Our authority, or by any other mode of appointment.

*Grant of Pardon. Remission of Fines. Proviso.**Banishment. Exception. Political Offences.*

X. When any crime or offence has been committed within the Colony, or for which the offender may be tried therein, the Governor may, as he shall see occasion, in Our name and on Our behalf, grant a pardon to any accomplice in such crime or offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders, if more than one; and further, may grant to any offender convicted of any such crime or offence in any Court, or before any Judge or Magistrate, within the Colony, a pardon either free or subject to lawful conditions, or any remission of the sentence passed on such offender, or any respite of the execution of such sentence, for such period as he may think fit, and may remit any fines penalties, or forfeitures due or accrued to Us. Provided always, that if the offender be a natural-born British subject, or a British subject by naturalization in any part of Our Dominions, the Governor shall in no case, except where the offence has been of a political nature unaccompanied by any other grave crime, make it a condition of any pardon or remission of sentence that the offender shall be banished from or shall absent himself or be removed from the Colony.

*Succession to the Government in the event of the death, etc., or absence of the Governor from South Africa.*

XI. In the event of the death, incapacity, removal, or absence from South Africa of Our said Governor, or of his being from any cause prevented from acting in the duties of his office, all and every the powers and authorities granted to him shall, until Our further pleasure is signified therein, be vested in such person as We may appoint under Our Sign Manual and Signet, and such person shall have and exercise all such powers and authorities until Our further pleasure shall be signified: Provided that no such powers or authorities shall vest in such person until he shall have taken the oaths hereinbefore directed to be taken by the Governor of the Colony, and in the manner herein prescribed.

*Temporary absence of the Governor.*

XII. Whenever and so often as the Governor shall be temporarily absent from the Colony in pursuance of any Instructions from Us through one of Our Principal Secretaries

of State, or in the execution of any Letters Patent or any Commission under Our Sign Manual and Signet appointing him to be Our High Commissioner or Special Commissioner for any territories in South Africa with which it may be expedient that We should have relations, or appointing him to be Governor or to administer the Government of any Colony, province, or territory adjacent or near to the Colony, or shall be absent from the Colony for the purpose of visiting Our High Commissioner for South Africa or the Governor or Officer Administering the Government of Our Colony of the Cape of Good Hope, or some other neighbouring Colony or State, for a period not exceeding one month, then and in every such case the Governor may continue to exercise all and every the powers vested in him as fully as if he were residing within the Colony.

*Governor may appoint a Deputy during his temporary absence from seat of Government or from the Colony.*

XIII. In the event of the Governor having occasion to be temporarily absent for a short period from the seat of Government or from the Colony, he may in every such case by an Instrument under the Public Seal of the Colony, constitute and appoint any person to be his Deputy within the Colony, or any part thereof, during such temporary absence, and in that capacity to exercise, perform, and execute for and on behalf of the Governor during such absence, but no longer, all such powers and authorities vested in the Governor, as shall in and by such Instrument be specified and limited, but no others. Every such Deputy shall conform to and observe all such Instructions as the Governor shall from time to time address to him for his guidance. Provided, nevertheless, that by the appointment of a Deputy, as aforesaid, the power and authority of the Governor shall not be abridged, altered, or in any way affected, otherwise than We may at any time hereafter think proper to direct.

Provided further that, if any such Deputy shall have been duly appointed, it shall not be necessary during the continuance in office of such Deputy for any person to assume the Government of the Colony as Administrator thereof.

*Officers and others to obey the Governor.*

XIV. And We do hereby require and command all Our Officers and Ministers, Civil and Military, and all other the inhabitants of the Colony, to be obedient, aiding and assisting unto the Governor or to such person or persons as may from time to time, under the provisions of these Our Letters Patent, administer the Government of the Colony.

*Term "the Governor" explained.*

XV. In the construction of these Our Letters Patent, the term "the Governor," unless inconsistent with the context, shall include every person for the time being administering the Government of the Colony.



*Power reserved to His Majesty to revoke, alter, or amend present Letters Patent.*

XVI. And We do hereby reserve to ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters Patent, as to Us or them shall seem fit.

*Proclamation of Letters Patent.*

\*XVII. And We do direct and enjoin that these Our Letters Patent shall be read and proclaimed at such place or places within the Colony as the Governor shall think fit, and shall commence and come into operation on a day to be fixed by the Governor by Proclamation in the Transvaal Government Gazette.

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourselves at Westminster, this sixth day of December, in the sixth year of Our Reign.

By warrant under the King's Sign Manual.

MUIR MACKENZIE..

#### ROYAL INSTRUCTIONS.

*Instructions passed under the Royal Sign Manual and Signet, to the Governor and Commander-in-Chief of the Colony of the Transvaal.*

EDWARD R. & I.

*Dated 6th December, 1906.*

INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Colony of the Transvaal, or to Our Lieutenant-Governor or other Officer for the time being administering the Government of Our said Colony.

Given at Our Court at St. James's, this sixth day of December, 1906, in the sixth year of Our Reign.

*Preamble. Recites Letters Patent, constituting the Office of Governor.*

Whereas by certain Letters Patent bearing even date herewith We have constituted, ordered, and declared that there shall be a Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of the Transvaal (therein and hereinafter called the Colony):

And whereas We have by the said Letters Patent authorised, empowered, and commanded the Governor to do and execute all things that belong to his said office, according to the tenor of the said Letters Patent and any other Our Letters Patent having effect within the Colony, and of such Commission as may be issued to him under Our Sign Manual

\* See Proc. (Admn.) Nos. 7 and 8 of 1907.

and Signet, and according to such Instructions as may from time to time be given to him under Our Sign Manual and Signet or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such laws as are now or shall hereafter be in force in the Colony:

Now, therefore, We do hereby direct and enjoin and declare Our Will and Pleasure to be as follows:—

*Term "Governor."*

I. In these Our Instructions, unless inconsistent with the context, the term "Governor" shall include every person for the time being administering the Government of the Colony.

*Oaths to be administered by Governor.*

II. The Governor may, whenever he thinks fit, require any person in the public service to take the Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Law in force in the Colony. The Governor is to administer such Oaths or cause them to be administered by some Public Officer of the Colony.

*Governor to communicate Instructions to Executive Council.*

III. The Governor shall forthwith communicate these Our Instructions to the Executive Council, and likewise all such others, from time to time, as he shall find convenient for Our service to impart to them.

*Executive Council not to proceed to business unless summoned by the Governor's authority. Quorum.*

IV. The Executive Council shall not proceed to the despatch of business unless duly summoned by authority of the Governor, nor unless two Members at the least (exclusive of himself or of the Member presiding) be present and assisting throughout the whole of the meetings at which any such business shall be despatched.

*Governor to preside, and in his absence such Member as he may appoint, or the Senior Member to preside. Seniority of Members.*

V. The Governor shall attend and preside at the meetings of the Executive Council, unless prevented by some necessary or reasonable cause, and in his absence such Member as may be appointed by him in that behalf, or in the absence of such Member the senior Member of the Executive Council actually present shall preside. The seniority of the Members of the said Council shall be prescribed by the Governor.

*Governor to take advice of Executive Council.*

VI. In the execution of the powers and authorities vested in him, the Governor shall be guided by the advice of the Executive Council, but if in any case he shall see sufficient cause to dissent from the opinion of the said Council, he may

act in the exercise of his said powers and authorities in opposition to the opinion of the Council, reporting the matter to Us without delay, with the reasons for his so acting.

In any such case it shall be competent to any Member of the said Council to require that there be recorded upon the Minutes of the Council the grounds of any advice or opinion that he may give upon the question.

*Description of Laws not to be assented to.*

VII. The Governor shall not assent in Our name to any law of any of the following classes:—

1. Any law for divorce.
2. Any law whereby any grant of land or money, or other donation or gratuity, may be made to himself.
3. Any law affecting the currency of the Colony.
4. Any law imposing differential duties.
5. Any law the provisions of which shall appear inconsistent with obligations imposed on Us by Treaty.
6. Any law interfering with the discipline and control of Our forces in the Colony by land or sea.
7. Any law of an extraordinary nature and importance, whereby our prerogative, or the rights and property of Our subjects not residing in the Colony, or the trade and shipping of the United Kingdom and its dependencies, may be prejudiced.
8. Any law containing provisions to which Our assent has been once refused, or which have been disallowed by Us:

Unless he shall have previously obtained Our Instructions upon such law through one of Our Principal Secretaries of State, or unless such law shall contain a clause suspending the operation thereof until the signification in the Colony of Our pleasure thereupon.

*Regulation of Power of Pardon in Capital Cases.*

*Judge's Report to be laid before Executive Council.*

*Governor to consult Executive Council in such Cases.*

*May exercise his own Judgment. Entering his Reasons on the Council Minutes.*

VIII. Whenever any offender shall have been condemned to suffer death by the sentence of any Court, the Governor shall consult the Executive Council upon the case of such offender, submitting to the Council any Report that may have been made by the Judge who tried the case; and when ever it appears advisable to do so, taking measures to invite the attendance of such Judge at the Council. The Governor shall not pardon or reprieve any such offender unless it shall appear to him expedient so to do, upon receiving the advice of the Executive Council thereon; but in all such cases he is to decide either to extend or to withhold a pardon or reprieve, according to his own deliberate judgment, whether the Members of the Executive Council concur therein or otherwise; entering nevertheless, on the Minutes of the Executive Council,

a Minute of his reasons, at length, in case he should decide any such question in opposition to the judgment of the majority of the Members thereof.

*Officers to be appointed during pleasure.*

IX. All Commissions granted by the Governor to any persons to be officers in the Colony shall, unless otherwise provided by law, be granted during pleasure only.

*Governor not to quit the Colony. Temporary leave of absence.*

X. Except in accordance with the provisions of any Letters Patent or of any Commission under Our Sign Manual and Signet, the Governor shall not, upon any pretence whatever, quit the Colony without having first obtained leave from Us for so doing under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State, unless for the purpose of visiting the High Commissioner for South Africa or the Governor or Officer Administering the Government of some neighbouring Colony or State, for periods not exceeding one month at any one time, nor exceeding in the aggregate one month for every year's service in the Colony.

*Governor's absence from the Colony.*

XI. The temporary absence of the Governor for any period not exceeding one month shall not, if he have previously informed the Executive Council in writing of his intended absence, and if he have duly appointed a Deputy in accordance with the above recited Letters Patent, nor shall any extension of such period sanctioned by one of Our Principal Secretaries of State and not exceeding fourteen days, be deemed absence from the Colony within the meaning of the said Letters Patent.

E. R. & I.

Act No. 1 of 1907.]

[Promulgated 5th April, 1907.]

## AN ACT

TO DECLARE THAT THE PERFORMANCE OF CERTAIN SERVICES FOR WHICH FEES MAY BE PAID OUT OF PUBLIC REVENUE SHALL NOT BE DEEMED TO BE THE HOLDING OF OFFICES OF PROFIT UNDER THE CROWN.

(Assented to 22nd March, 1907.)

WHEREAS by section XVIII of the Transvaal Constitution Letters Patent 1906 it is provided that no person holding any office of profit under the Crown within the Colony (other than that of a Minister as in the said Letters Patent defined) should be eligible to be elected a member of the Legislative Assembly constituted as thereby provided ;

And whereas by section XXX of the said Letters Patent it is provided that if any member of the Legislative Council or Legislative Assembly (constituted as thereby provided) should accept any office of profit under the Crown (other than that of a Minister or of an officer of His Majesty's Naval or Military forces on retired or half pay) the seat of such member should become vacant ;

And whereas it is expedient to declare that the performance of certain services in respect of which fees may be paid out of the public revenue shall not be deemed to be the holding of offices of profit under the Crown within the meaning of the said sections ;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. A member of the Legislative Council or Legislative Assembly who may at any time either before or after the passing of this Act have performed any of the services described in the Schedule hereto and is or may be paid out of the public revenue fees (other than salary periodically calculated) for or in respect of such services shall not by reason of the same be deemed to hold or to have held an office of profit under the Crown within the meaning of section XVIII or section XXX of the Transvaal Constitution Letters Patent 1906.

2. This Act may be cited for all purposes as the Offices of Profit under the Crown Interpretation Act 1907.

*SCHEDULE.*

(1) As member of the Inter-Colonial Council constituted under the " Inter-Colonial South Africa Order-in-Council, 1903 " or any amendment thereof or of the Railway Committee of such Council.

(2) As member of a Liquor Licensing Court constituted under the Liquor Licensing Ordinance 1902 or any amendment thereof.

(3) As member of the Transvaal Land Settlement Board constituted under section LII of the Transvaal Constitution Letters Patent 1906.

(4) As a volunteer enrolled under the Volunteer Corps Ordinance 1904 (other than on the permanent staff as therein defined).

(5) As a member of any Commission appointed by the Governor in Council to make any public enquiry.

The serving of the Crown in certain capacities not to be deemed the holding of an office of profit under the Crown.

Title.

Act No. 2 of 1907.]

[Promulgated 5th April, 1907.]

## † AN ACT

TO AMEND LAW NO. 3 OF 1885.

(Assented to 22nd March, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :

1. Sub-section (c) of article *two* of Law No. 3 of 1885 as amended by Volksraad Resolutions Article 1419 of the twelfth day of August 1886 and Article 128 of the sixteenth day of May 1890 shall be and is hereby repealed.

Repeal.

2. In this Act unless inconsistent with the context :

Definitions.

“ Asiatic ” shall mean any such male person as is described in article *one* of Law No. 3 of 1885 not being a Malay born and resident in any British Colony or possession in South Africa nor a person introduced into the Colony under the Labour Importation Ordinance 1904 and not being an officer in the Chinese Consular Service ;

“ register of Asiatics ” shall mean the register to be kept under this Act as prescribed by regulation ;

“ Registrar ” shall mean the officer appointed by the Governor to keep the register of Asiatics and any person lawfully acting in such capacity ;

“ resident magistrate ” shall include an assistant resident magistrate ;

“ regulation ” shall mean any regulation made under section *eighteen* of this Act ;

“ guardian ” shall mean the parent of an Asiatic under the age of sixteen or any other person under whose care or control such Asiatic is living for the time being or failing any such person the employer of such Asiatic ;

\*“ application for registration ” shall mean an application to be placed on the register of Asiatics made in such manner and form as may be prescribed by regulation and accompanied by the supplying of such particulars and the furnishing of such means of identification as may be required by this Act or by regulation ;

“ applicant ” shall mean any person who makes application for registration on his own behalf or any person on whose behalf application for registration is made by his guardian ;

† See Act No. 36 of 1908.

\* For manner and form of application for registration, see Government Notice No. 716 of 1907.

†“certificate of registration” shall mean a certificate of registration under this Act in the form prescribed by regulation ;

“lawful holder” as used in relation to any certificate of registration shall mean the person whose registration is thereby certified.

All Asiatics lawfully resident in Colony to be registered.

3. (1) Every Asiatic lawfully resident in this Colony shall subject to the exceptions hereinafter mentioned be registered in the register of Asiatics and shall thereupon be entitled to receive a certificate of registration and no charge shall be made for such registration or certificate save as in section twelve of this Act provided.

(2) The following shall be deemed for the purposes of this Act to be Asiatics lawfully resident in this Colony :—

(i) Any Asiatic duly authorized to enter and reside in this Colony by a permit issued under the Indemnity and Peace Preservation Ordinance 1902 or any amendment thereof or issued between the first day of September 1900 and the date of the passing of the said Ordinance, unless such permit shall have been fraudulently obtained ; provided that any permit expressed to authorize any Asiatic to remain in this Colony for a limited time only shall not be deemed to be a permit within the meaning of this sub-section.

(ii) Any Asiatic resident and actually in this Colony on the thirty-first day of May 1902.

(iii) Any Asiatic born in this Colony since the thirty-first day of May 1902 not being the child of any labourer introduced into this Colony under the Labour Importation Ordinance 1904.

Asiatics to apply for registration within fixed time.

\*4. (1) Every Asiatic resident in this Colony at the date of the taking effect of this Act shall before such date or dates and at such place or places and to such person or persons as the Colonial Secretary may prescribe by notice in the *Gazette* make application for registration.

‡(2) Every Asiatic who enters this Colony after the date of the taking effect of this Act and who has not previously been

† For form of certificate of registration, see Government Notice No. 716 of 1907.

\* The dates and places for making application by Asiatics resident in the several districts were fixed by the following notices in the *Gazette* : Pretoria, Govt. Notice No. 717 (*Gazette*, 28/6/07) ; Zoutpansberg, Govt. Notice No. 863 (*Gazette*, 2/8/07) ; Potchefstroom, Govt. Notice No. 872 (*Gazette*, 9/8/07) ; Rustenburg, Govt. Notice No. 909 (*Gazette*, 16/8/07) ; Waterberg, Govt. Notice No. 910 (*Gazette*, 16/8/07) ; Standerton, Govt. Notice No. 911 (*Gazette*, 16/8/07) ; Heidelberg, Govt. Notice No. 912 (*Gazette*, 16/8/07) ; Wakkerstroom, Govt. Notice No. 913 (*Gazette*, 16/8/07) ; Barberton, Govt. Notice No. 931 (*Gazette*, 23/8/07) ; Lydenburg, Govt. Notice No. 932 (*Gazette*, 23/8/07) ; Middelburg, Govt. Notice No. 933 (*Gazette*, 23/8/07) ; West Rand, Govt. Notice No. 957 (*Gazette*, 30/8/07) ; Marico, Govt. Notice No. 958 (*Gazette*, 30/8/07) ; East Rand, Govt. Notice No. 991 (*Gazette*, 6/9/07) ; Bloemhof, Wolmaransstad, Lichtenburg, Piet Retief, Ermelo, Carolina, and Bethal, Govt. Notice No. 992 (*Gazette*, 6/9/07) ; Central Witwatersrand, Govt. Notice No. 1016 (*Gazette*, 13/9/07). The time for making application was extended up till 30th November, 1907, for all Asiatics in all districts provided applications were made in person at Pretoria (Govt. Notice No. 1191 of 1907, (*Gazette*, 1/11/07, p. 207).

‡ For time and place see Govt. Notice No. 864 of 1907 (*Gazette*, 2/8/07).

registered thereunder shall within eight days after entering this Colony unless he shall have entered under a permit granted under section *seventeen* make application for registration to such person and at such place as may be so prescribed; provided that

(a) no application shall be required to be made under this section on behalf of any Asiatic child who at the expiration of the time within which such application is required to be made is under the age of eight years;

(b) in the case of any Asiatic child who at the expiration of such time is eight years of age but under sixteen years of age such application shall be made on such child's behalf by his guardian and if not so made shall be made by such child within one month after attaining the age of sixteen years.

5. (1) The Registrar shall consider every application for registration made under the last preceding section and register every applicant who is lawfully resident in this Colony or whose application is approved by him and shall cause to be issued to such applicant or the guardian who made the application on his behalf a certificate of registration.

Registrar to register applicants if approved and in case of refusal to give notice.

(2) If it shall appear to the Registrar that any applicant is not lawfully resident in this Colony he may refuse to register such applicant and in case of refusal where the applicant is of the age of sixteen years or over shall cause a notice of refusal to be sent by post to the applicant at the address given by him on application, and a copy of such notice shall be affixed to the principal door of the magistrate's office of the district where such application was made and the Registrar shall by such notice direct such applicant to appear before the resident magistrate of the district at a time therein specified being not less than fourteen days from the date of such notice and show cause why he should not be ordered to leave this Colony and if such applicant shall fail to appear at the time specified in such notice or having appeared shall fail to satisfy the resident magistrate that he is lawfully resident in the Colony the resident magistrate if the applicant is of the age of sixteen years or over shall make an order in writing directing him to leave this Colony within a time to be specified in such order; provided always that if such order is made in the absence of the applicant such time shall run from the date of the service of the order upon him and such order shall be deemed to be an order made under section *six* of the Peace Preservation Ordinance 1903 and sections *seven* and *eight* of the said Ordinance shall apply accordingly; provided further that if the resident magistrate shall be satisfied that the applicant is lawfully resident within this Colony such magistrate shall make an order upon the Registrar requiring him to register such applicant and to issue to him a certificate of registration.

6. (1) Any Asiatic who is the guardian of an Asiatic child under the age of eight years shall upon making application for registration on his own behalf supply such particulars and furnish such means of identification in respect of such child as may be prescribed by regulation and if such guardian is himself registered the particulars aforesaid which he has supplied shall be provisionally noted on the register and such guardian shall within one

Provisions as to particulars to be supplied and applications to be made by guardians.



year after the child aforesaid attains the age of eight years make application for registration on such child's behalf at the office of the resident magistrate of the district in which he himself resides.

(2) The guardian of every Asiatic child born in this Colony after the date of the taking effect of this Act shall within one year after such child attains the age of eight years make application for registration on such child's behalf at the office of the resident magistrate of the district in which he himself resides; provided that

(a) where any guardian fails to make application for registration on behalf of any Asiatic child whose guardian he is within the time hereby prescribed for making the same such guardian shall on being thereto required by the Registrar or any resident magistrate make such application at any later date;

(b) where any application which is required to be made under this section by the guardian of an Asiatic child is not made by such guardian or where such application is refused application for registration shall be made by such Asiatic child at the office of the resident magistrate of the district within which he resides within one month after he attains the age of sixteen years.

The resident magistrate at whose office any application is made under this section shall cause the record of such application and all documents relating thereto to be forwarded to the Registrar who shall if satisfied that the same is in order register the applicant and cause to be issued to him or his guardian a certificate of registration.

7. Where particulars as to any Asiatic child under the age of eight years have not been provisionally noted on the register as is in the last preceding section provided by reason of the failure of his guardian to supply such particulars application for registration shall nevertheless be made on behalf of such Asiatic child by his guardian within one year after he attains the age of eight years and if not so made shall be made by such Asiatic child within one month after he attains the age of sixteen years at the office of the resident magistrate of the district in which he resides and the record of such application and all documents relating thereto shall be forwarded to the Registrar who may in his discretion register the applicant and issue to him or his guardian a certificate of registration.

8. (1) Any person who shall fail to make application for registration as required by this Act, either on his own behalf or as guardian on behalf of an Asiatic child shall be liable on conviction to a fine not exceeding one hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

(2) Any person who brings into this Colony an Asiatic under the age of sixteen years not lawfully resident therein and any person who shall employ such child in any trade or business shall be guilty of an offence and shall be liable on conviction to the following penalties:

(a) to the penalties mentioned in sub-section (1) of this section; and

Application for registration by Asiatics on attaining age of sixteen whose guardians have failed to supply particulars.

Penalties for failing to make application.

(b) if such person is the holder of a certificate of registration to cancellation of such certificate by the Registrar; and thereupon the Colonial Secretary may issue an order directing such person to leave this Colony and such order shall be deemed to be an order issued under section *six* of the Peace Preservation Ordinance 1903 and sections *seven* and *eight* of the said Ordinance shall apply accordingly.

\* (3) Any Asiatic over the age of sixteen years who after such date as may be notified by the Colonial Secretary in the *Gazette* is found within the Colony and fails upon such demand as is hereinafter mentioned to produce a certificate of registration of which he is the lawful holder may be arrested without warrant and brought before a resident magistrate and if he fails to satisfy such magistrate that he is the lawful holder of a certificate of registration or that the time within which he is required to make application for such certificate has not expired the magistrate shall save as in the next succeeding sub-section provided make an order in writing directing such Asiatic to leave this Colony within such time as may be specified in such order and such order shall be deemed to be an order made under section *six* of the Peace Preservation Ordinance 1903 and section *seven* and *eight* of the said Ordinance shall apply accordingly.

(4) If an Asiatic who has failed to make application for registration within the time prescribed by this Act shall satisfy the magistrate before whom he is brought that such failure was due to some good and sufficient cause the magistrate may instead of making such order as aforesaid direct such Asiatic forthwith to make application for registration and if such Asiatic shall comply with such direction his application shall be dealt with in all respects as if it had been made within the time within which it was required to be made by this Act and all the provisions of this Act which would have applied if the application had been so made shall apply accordingly but if he shall fail to comply with such direction the magistrate shall make such order for removal as aforesaid in respect of such Asiatic.

9. Every Asiatic of the age of sixteen years or over entering or residing in this Colony shall upon demand made upon him by any member of a police force lawfully established in this Colony or any other person authorized thereto by the Colonial Secretary produce the certificate of registration of which he is the lawful holder and shall also on like demand supply such particulars and furnish such means of identification as may be prescribed by regulation.

Registration certificate to be produced on demand.

Every guardian of an Asiatic child under the age of sixteen years shall produce on such demand as aforesaid any certificate of registration of which such child is the lawful holder and supply any particulars and furnish any means of identification required by this Act or any regulation in respect of such child.

10. Every certificate of registration shall be accepted as conclusive evidence in all places that the lawful holder thereof notwithstanding anything in the Peace Preservation Ordinance 1903 contained is entitled to enter and reside in this Colony; provided

Evidence of registration certificates.

\* The date notified under this section was the 30th November, 1907; see Government Notice No. 1097 of 1907 (*Gazette*, 4/10/07).

always that this section shall not apply to persons who have under section *ten* of the Peace Preservation Ordinance 1903 been ordered to leave the Colony.

Duty of persons finding lost certificates.

11. Any person into whose hands shall come any certificate of registration or any permit issued under section *seventeen* of which he is not the lawful holder shall forthwith deliver or transmit the same by post as soon as may be to the Registrar of Asiatics, Pretoria.

Any person who fails to comply with the requirements of this section shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

Provision where registration certificate is lost or destroyed.

12. If at any time any certificate of registration is lost or destroyed the person who was the lawful holder thereof shall apply forthwith to the Registrar to have the same renewed and the Registrar shall upon compliance by such person with the regulations relating to applications for the renewal of certificates and upon payment of a fee of five shillings renew such certificate. The said fee shall be denoted by means of revenue stamps to be affixed to such application by the applicant for such renewal and shall be defaced by the officer who receives such application.

Trading licences not to be granted to Asiatics except upon production of certificates.

\*13. *Repealed by Act No. 36, 1908, section fourteen (3).*

Evidence as to age of Asiatic.

14. Whenever in any prosecution or other proceeding under this Act the age of any Asiatic is in question such Asiatic shall unless and until the contrary be proved be taken to be of the age which the Registrar shall in any certificate issued under his hand certify to be in his opinion the apparent age of such Asiatic.

Exemption from stamp duty of affidavit or sworn declaration required by regulation.

15. Any affidavit or sworn declaration which is required by regulation to be made by any person who makes an application for registration either on his own behalf or on behalf of some other person shall be exempt from stamp duty.

Offences relating to applications for registration and to registration certificates.

16. Any person who ;  
 (i) for the purpose of or in connection with an application for registration or for the purpose of obtaining a certificate of registration commits any fraudulent act or makes any false statement or false pretence or incites any person to or aids or abets any person in such act statement or pretence ;  
 (ii) forges any certificate of registration ;  
 (iii) uses or attempts to use as his certificate any certificate of registration of which he is not the lawful holder or any forged certificate of registration ;  
 (iv) incites any person to use or aids and abets any person in using as such person's certificate any certificate of registration of which such person is not the lawful holder or any forged certificate of registration ;

\* The date notified under this section was the 31st December, 1907 ; see Govt. Notice No. 1096 of 1907 (*Gazette*, 4/10/07).

shall be liable to a fine not exceeding five hundred pounds or in default of payment to imprisonment with or without hard labour for a term not exceeding two years or to both such fine and such imprisonment.

17. (1) Notwithstanding anything in the Peace Preservation Ordinance 1903 contained a permit to enter this Colony may in the absolute discretion of the Colonial Secretary be issued in the form prescribed by regulation authorizing an Asiatic to enter and remain in this Colony for any period named in such permit and after the expiry of such period the person authorized by such permit to enter this Colony shall be deemed to be a person not duly authorized to be in this Colony and if found may be arrested without warrant, and the provisions of sections *seven* and *eight* of the said Ordinance shall apply to such person as if he were a person who at the date of such expiry had been ordered to leave this Colony under section *six* of the said Ordinance and had failed to comply with such order.

Power to issue permits to Asiatics to remain in Colony for limited period.

(2) The provisions of section *nine* of the said Ordinance shall in all cases apply to permits issued under this section.

(3) Any permit issued before the date of the taking effect of this Act to an Asiatic under the Indemnity and Peace Preservation Ordinance 1902 or any amendment thereof and expressed to authorize such Asiatic to remain in this Colony for a limited time only shall be deemed to be a permit issued under this section.

(4) The Colonial Secretary may in his discretion order that the person authorized by any permit issued under this section to enter and remain in this Colony shall not during the currency of such permit be deemed to be a coloured person for the purpose of the provisions of the Liquor Licensing Ordinance 1902 or any amendment thereof and such order shall be endorsed on such permit and shall be of full force and effect for such purposes.

(5) The Colonial Secretary may issue any such order as in the last preceding sub-section mentioned in respect of any person who is a member of an Asiatic race and is not subject to the provisions of this Act.

\*18. The Governor in Council may from time to time make alter and repeal regulations for any of the following purposes :

Power to make regulations.

(1) prescribing the form of the register to be kept under this Act ;

(2) prescribing the manner and form in which application shall be made for registration the particulars to be supplied and the means of identification to be furnished by any applicant or the guardian of any applicant for the purpose of or in connection with such application ;

(3) prescribing the form of certificates of registration ;

(4) prescribing the particulars to be supplied and the means of identification to be furnished ;

(a) by the guardian of any Asiatic child under the age of eight years under section *six* of this Act ;

(b) by any Asiatic upon such demand as is in section *nine* of this Act mentioned ;

(c) by any Asiatic applying for the renewal of any certificate of registration which has been lost or destroyed ;

\* For regulations see Govt. Notice No. 716 of 1907 (*Gazette*, 28/6/07).

(d) by any Asiatic applying for a trading licence;

(5) prescribing the form of permit to be issued under section *seventeen* of this Act.

General penalties.

19. Any Asiatic or the guardian of any Asiatic failing to comply with any requirement of this Act shall except where otherwise specified be liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Provisions as to certain Asiatics under contracts of service.

20. Notwithstanding anything contained in the Labour Importation Ordinance 1904 no Asiatic who is the lawful holder of a certificate of registration and no Asiatic who was lawfully resident in this Colony or allowed to enter it under a proper permit before the date of the said Ordinance shall be prohibited from entering or residing in or being introduced into this Colony by reason of the fact that he is under a contract of service and has not entered into the contract referred to in section *eight* of the said Ordinance.

Provision as to holding fixed property.

21. Notwithstanding anything contained in sub-section (b) of article *two* of Law No. 3 of 1885 as amended by Volksraad Resolution article *one thousand four hundred and nineteen* of the twelfth day of August 1886, any fixed property in this Colony acquired by an Asiatic before the taking effect of such Law and registered in the name of such Asiatic whether before or after the taking effect of such Law may be transmitted by such Asiatic to another Asiatic by testamentary or other inheritance.

Title and date of taking effect.

\*22. This Act may be cited for all purposes as the Asiatic Law Amendment Act 1907 and shall not take effect unless and until the Governor shall proclaim in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall take effect upon such date as the Governor shall notify by proclamation.

\* See Proc. No. 44 (Admn.) of 1907 notifying His Majesty's Assent; and Proc. No. 49 (Admn.) of 1907 notifying the 1st July, 1907, as the date of taking effect of the Act. Digitised by the Open Scholarship & Digitisation Programme, University of Pretoria, 2016

Act No. 3 of 1907.]

[Promulgated 9th July, 1907.]

## AN ACT

TO DEFINE THE PRIVILEGES IMMUNITIES AND POWERS OF THE LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY OF THE TRANSVAAL OR EITHER OF THEM AND TO SECURE FREEDOM OF SPEECH AND DEBATE OR PROCEEDINGS IN PARLIAMENT AND TO GIVE SUMMARY PROTECTION TO PERSONS EMPLOYED IN THE PUBLICATION OF PARLIAMENTARY PAPERS.

(Assented to 4th July, 1907.)

WHEREAS by "The Transvaal Constitution Letters Patent 1906" it was amongst other things provided that there should be established in this Colony in place of the Legislative Council then existing a Legislative Council and a Legislative Assembly to be severally constituted as therein provided and further that it should be lawful for the Legislature of this Colony by any Act to define the privileges immunities and powers to be held enjoyed and exercised by the Legislative Council and the Legislative Assembly or either of them and by the members thereof respectively not exceeding those for the time being held enjoyed and exercised by the Commons House of the Parliament of the United Kingdom and by the members thereof;

And whereas it is essential to the due and effectual exercise and discharge of the functions and duties of Parliament and to the promotion of wise legislation that the freedom of speech and debate or proceedings therein should not be impeached or questioned in any court or place out of Parliament and that no obstructions or impediments should exist to the publication of such reports, papers, minutes, votes, or proceedings of the Legislative Council and Legislative Assembly or either of them as such Council or Assembly sitting jointly or separately may deem fit or necessary to be published;

And whereas it is expedient that such freedom be secured by law and that all such obstructions or impediments which may arise be summarily removed;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The Legislative Council Powers and Privileges Ordinance 1903 shall be and is hereby repealed.

Repeal of  
Ordinance  
No. 34 of  
1903.

2. In this Act unless inconsistent with the context "Houses of Parliament" "Houses" or "House" or "Parliament" shall mean the Legislative Council and Legislative Assembly sitting jointly as provided by section

Interpreta-  
tion of terms.

XXXVII of the Transvaal Constitution Letters Patent 1906 or the Legislative Council and Legislative Assembly or either such Council or such Assembly ;

“ President ” shall mean the person for the time being presiding over the Legislative Council ;

“ Speaker ” shall mean the officer for the time being presiding over and the member duly elected so to do by the Legislative Assembly ;

“ member ” shall mean a member either of the Legislative Council or of the Legislative Assembly or the Speaker ;

“ clerk ” shall mean the officer holding such appointment under the authority or appointment of the Legislative Council or the President thereof or of the Legislative Assembly or the Speaker thereof ;

“ officer of Parliament ” shall mean the clerk or clerk-assistant of the Legislative Council the clerk or clerk-assistant of the Legislative Assembly the gentleman usher of the black rod the serjeant-at-arms and such other officers or persons as may be appointed from time to time to the staff of either House ;

“ committee ” shall mean any standing sessional special or select committee of the Legislative Council or Legislative Assembly or a committee of the two Houses sitting jointly in terms of section XXXVII of the Transvaal Constitution Letters Patent 1906 or a joint committee of the two Houses ;

“ journals ” shall mean

(1) the minutes or minutes of proceedings of the Legislative Council ; or

(2) the votes or votes and proceedings of the Legislative Assembly ; or

(3) the minutes or minutes of proceedings of both Houses sitting jointly as the case may be.

Any reference to the Transvaal Constitution Letters Patent 1906 or any provision thereof shall be deemed to include a reference to such Letters Patent or provision thereof as the same may be from time to time amended under section XXXVI of such Letters Patent.

#### GENERAL.

Designation of  
Legislature.

3. The Legislature of the Transvaal shall be and is hereby designated “ The Parliament of the Transvaal.”

Freedom of  
speech and  
debate or pro-  
ceedings in  
Parliament  
not to be  
questioned  
out of  
Parliament.

4. There shall be freedom of speech and debate or proceedings in Parliament and such freedom of speech and debate or proceedings shall not be liable to be impeached or questioned in any court or place out of Parliament.

Powers of  
Houses.

5. For the purposes of this Act each House and both Houses sitting jointly are hereby declared to possess all such powers and jurisdiction as is necessary for enquiring into judging and

pronouncing upon the commission of any such acts matters or things and awarding and carrying into execution the punishment therefor as are provided by this Act.

6. The Legislative Council and the Legislative Assembly sitting jointly or separately shall be a court of record and shall have all the rights and privileges of a court of record for the purpose of summarily enquiring into and punishing the acts matters and things herein declared to be contraventions of this Act.

Each House to be court of record.

**PRIVILEGE OF PARLIAMENT AND OF THE MEMBERS AND OFFICERS THEREOF.**

7. Save as is otherwise expressly provided by this Act the Legislative Council and Legislative Assembly of the Transvaal or either of them and the members thereof respectively shall hold enjoy and exercise such and the like privileges immunities and powers as at the time of the promulgation of the Transvaal Constitution Letters Patent 1906 were held enjoyed and exercised by the Commons House of the Parliament of the United Kingdom and by the members thereof and also such privileges immunities and powers as are from time to time defined by any law of this Colony but not exceeding those at the commencement of such law enjoyed and exercised by the Commons House aforesaid and by the members thereof respectively whether such privileges immunities or powers were so held possessed or enjoyed by custom statute or otherwise; provided always that no such privileges immunities or powers shall at any time exceed those at the same time held and exercised by the Commons House of the said Parliament and by the members thereof.

Privilege to be the same as that enjoyed by Commons House of Parliament of United Kingdom.

8. Such privileges immunities and powers shall be part of the general and public law of this Colony and it shall not be necessary to plead the same but the same shall in all courts in this Colony be judicially noticed.

Privileges to be noticed judicially.

9. At any stage of any civil or criminal proceedings instituted for or on account or in respect of any matter of privilege upon production to the court or judge by the defendant of a certificate under the hand of the President or Speaker (as the case may be) or if in recess or the Speakership or Presidency (as the case may be) be vacant or the President or Speaker (as the case may be) be incapacitated or absent from the Colony then of a certificate of the clerk of the Legislative Council or of the Legislative Assembly (as the case may be) stating that the matter in question is one which concerns the privilege of Parliament such court or judge shall immediately stay such civil or criminal proceedings and thereupon the same and every process issued therein shall be and is hereby deemed to be finally determined.

Stay of process in respect of matters of privilege.

10. No member or officer of Parliament summoned to attend before a House or any committee of a House of which he is not a member or officer shall be at liberty so to attend without the consent of the House of which he is a member or officer and such member or officer shall not be bound so to attend except upon an order of the House of which he is a member or officer.

Attendance of members before either House.



Officers exempt from service as jurors and members and officers exempt from attendance as witnesses in civil proceedings in any courts other than the Supreme Court while attending Parliament.

Member not liable to action in certain cases.

Member not liable to arrest during session.

No proceedings to lie against officials of either House.

Persons not liable in damage for act done under authority of Parliament.

Houses empowered to punish for certain contempts.

11. No officer of Parliament while in actual attendance on Parliament shall be required to serve on any jury and on member or officer while in actual attendance on Parliament shall be required to attend as a witness in any court other than the Supreme Court in any civil proceeding and no civil proceeding in which such member or officer is a defendant shall be brought to trial in any court other than the Supreme Court while such member or officer is in such attendance. The certificate of the President of the Legislative Council or the Speaker of the Legislative Assembly (as the case may be) shall be deemed sufficient proof that any such member or officer is in actual attendance on Parliament.

12. No member shall be liable to any civil or criminal proceedings arrest imprisonment or damages by reason of any matter or thing which he may have brought by petition bill resolution motion or otherwise or have said before Parliament.

13. Except for a contravention of this Act no member shall be liable to arrest detention or molestation in respect of any debt or matter which may be the subject of civil proceedings during any session of Parliament or during the fifteen days preceding or the fifteen days following such session.

14. No civil or criminal proceedings shall lie against the President the Speaker any chairman of committee or any officer of Parliament or any member of a police force for anything done by or under the warrant or by the direction of the President Speaker or such officer when the same is done or purported to be done under the standing orders or other order or resolution of the House or Houses sitting jointly or under the provisions of this Act.

15. No person shall be liable in damages or otherwise for any act done under the authority of Parliament and within its legal power or under or by virtue of any warrant.

#### CONTEMPT OF PARLIAMENT.

16. Parliament may summarily punish for contempt to the extent of and according to the standing orders thereof by the imposition of fine or fees or both and if any such fine or fees so imposed be not immediately paid the offender shall be committed to the custody of the keeper of any gaol or of an officer of the House in such place as it may direct until payment be made or for a period not later than the last day of the then existing session.

The offences in this section enumerated whether committed by a member or by any other person shall be the offences for which such punishment for contempt may be imposed ; that is to say

(1) disobedience to any order for the attendance or production before it of papers books records or documents made by Parliament or any committee duly authorized in that behalf unless such attendance or production be excused as provided in section *twenty-seven* ;

- (2) refusing to be examined before or to answer any lawful and relevant question put by Parliament or any such committee unless such refusal be excused as provided in section *twenty-seven* ;
- (3) the wilful refusal or failure of any member or officer of Parliament or other person to obey any rule order or resolution of Parliament ;
- (4) the offering to or acceptance by any member of a bribe to influence him in his conduct as such member or the offering to or acceptance by any such member of any fee compensation or reward for or in respect of the promotion of any bill resolution matter or thing submitted to or intended to be submitted to Parliament or any committee ;
- (5) assaulting obstructing or insulting any member who is coming to or going from the House or on account of his conduct in Parliament or endeavouring to compel any member by force insult or menace to declare himself in favour of or against any proposition or matter depending or expected to be brought before Parliament ;
- (6) assault upon or interference with an officer of Parliament while in the execution of his duty ;
- (7) sending to a member any threatening letter on account of his conduct in Parliament ;
- (8) sending to a member a challenge to fight ;
- (9) creating or joining in any disturbance in the House or in the vicinity of the House while the same is sitting whereby the proceedings of such House are or are likely to be interrupted ;
- (10) tampering with any witness in regard to evidence to be given by him before Parliament or any committee ;
- (11) the giving of false evidence prevarication or other misconduct as a witness before Parliament or any committee ;
- (12) disobedience to a warrant issued under the authority of this Act requiring the attendance of any witness before Parliament or any committee ;
- (13) presenting to Parliament or to any committee any fabricated or falsified document with intent to deceive Parliament or such committee ;
- (14) the institution of any civil proceedings against or the causing or effecting of any arrest or imprisonment of any member in connection with any civil proceeding in respect of or by reason of any matter or thing which he may have brought by petition bill resolution motion or otherwise or may have said before Parliament or any committee ;
- (15) causing or effecting the arrest detention or molestation of a member for any debt or cause of action during a session of Parliament or during the fifteen days preceding or the fifteen days following such session ;
- (16) any indignity offered to the character of proceedings of Parliament ;
- (17) any contempt from time to time set forth and declared to be such in any standing order of Parliament.

Punishment for false or scandalous libel on a member.

17. The publication of any false or scandalous libel on any member touching his conduct as a member by any person other than a member is hereby declared to be an offence and any person convicted of such offence shall be liable to a fine not exceeding one hundred pounds or in default of payment to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

Authority of House to be obtained for prosecution for contempt.

18. No prosecution shall lie against any person for any such contempt against Parliament as is punishable by a court of law except upon an order of that House against which such contempt shall have been committed.

#### WARRANTS AND ARRESTS.

President or Speaker to issue warrant.

19. For the purpose of punishing any of the contempts named in this Act the President or Speaker as the case may be and if the Houses of Parliament be sitting jointly then the Speaker is hereby empowered upon a resolution in that behalf of Parliament to issue a warrant under his hand for the apprehension and imprisonment as aforesaid of any person adjudged by Parliament guilty of any such contempt if such fine and fees or either shall not have been paid as aforesaid.

Form of warrant.

20. Every such warrant of imprisonment shall contain a statement that the person therein mentioned has been adjudged guilty of contempt by the House the President or Speaker of which shall have issued the same and shall specify the nature of such contempt; and every such warrant shall be sufficient if it can be reasonably inferred therefrom that the person mentioned therein has been adjudged guilty of any of the contempts aforesaid and it shall not be necessary to observe any particular form in any such warrant.

Persons disturbing proceedings of House may be arrested without warrant.

21. Any person creating or joining in any disturbance in the House during its actual sitting may be arrested without warrant on the verbal order of the President or Speaker as the case may be and may be kept in the custody of an officer of the House until a warrant can be made out for the imprisonment of such person in manner aforesaid.

Sheriff constables and others to assist in execution of warrant or verbal order.

22. The Sheriff and his officers and all police officers constables and other persons are hereby required to assist in the apprehension and detention of any person in pursuance of such verbal order aforesaid of the President or Speaker as the case may be and to aid and assist in the execution of any such warrant as aforesaid and where any such warrant directs that the person mentioned therein shall be imprisoned in any gaol or other place the keeper thereof is hereby required to receive such person into his custody in the said gaol or other place and there to imprison him according to the tenor of the warrant.

Doors may be broken open in executing warrant.

23. It shall be lawful for any person charged with or assisting in the execution of any warrant under the hand of the President or Speaker as aforesaid to break open in the day time any door or search any premises in which the person for whose apprehension such warrant was issued may be or may reasonably be suspected of being concealed.

ATTENDANCE OF WITNESSES BEFORE PARLIAMENT AND MATTERS INCIDENTAL THERETO.

24. Parliament and any committee which is duly authorized by an order of the House to send for persons documents or papers may order any person to attend before the Legislative Council and Legislative Assembly or either of them or before such committee and to produce any paper book record or document in the possession or under the control of such person.

Power to order the attendance of witnesses.

25. Any such order to attend or to produce documents before the Legislative Council and Legislative Assembly or either of them shall be notified to the person required to attend or to produce documents by a summons under the hand of its clerk issued under the direction of the President or Speaker (as the case may be) or if required to attend or produce documents before both Houses sitting jointly as provided by section XXXVII of The Transvaal Constitution Letters Patent 1906 or before any committee of both Houses sitting jointly by a summons under the hand of the clerk of the Legislative Assembly issued on the direction of the Speaker and any such order to attend or to produce documents before any committee of the Legislative Council or Legislative Assembly shall be notified to the person required to attend or to produce documents by a summons under the hand of the clerk of the Legislative Council or the clerk of the Legislative Assembly (as the case may be) issued on the direction of the chairman of such committee and in every such summons there shall be stated the time when and the place at which the person summoned is required to attend and the particular documents which he is required to produce and such summons shall be served on the person mentioned therein either by delivering to him a copy of such summons or by leaving a copy of the same with some adult person at his usual or last known place of abode in the Colony and there shall be paid or tendered to the person so summoned such sum for his expenses of attendance as may be prescribed by any standing order in that behalf.

Such attendance to be notified by summons.

26. Both Houses of Parliament or either of them or any committee may require that any facts matters and things relating to the subject of enquiry before Parliament or any committee be verified or otherwise ascertained by the oral examination of witnesses and may cause such witnesses to be examined upon oath and for that purpose the President Speaker or chairman of a committee or officer or person appointed for that purpose may administer an oath in the form following :—

Witness may be examined on oath.

“The evidence you shall give to (*state here whether to Parliament to both Houses sitting jointly to which House or to what committee of Parliament as the case may be*) touching (*state here the matter the subject of enquiry*) shall be the truth the whole truth and nothing but the truth. So help you God.”

Provided always that sections *six* and *seven* of the Law of Evidence Proclamation 1902 shall *mutatis mutandis* apply in respect of any person required to be examined as a witness in such enquiry.

Objections to answer questions or to produce papers to be reported to and decided by Parliament.

27. If any person ordered to attend or produce any paper book record or document before Parliament or any committee of the whole Council or of the whole Assembly as the case may be shall refuse to answer any question that may be put to him or to produce any such paper book record or document on the ground that the same is of a private nature and does not affect the subject of enquiry the President or Speaker shall report such refusal with the reasons therefor to the House over which he presides and a chairman of committee may be directed to report such refusal to the House and such House may thereupon excuse the answering of such question or the production of such paper book record or document or may order the answering or production thereof as to it seem fit.

Wilfully false answers to be deemed perjury.

28. Any person who before Parliament or any committee shall after being duly cautioned as to his liability to punishment under this section wilfully and corruptly make a false answer to any question material to the subject of enquiry which shall be put to him during the course of any examination shall be guilty of an offence and shall be liable on conviction to the penalties prescribed by law for perjury.

Privileged evidence.

29. The same rules relating to privilege of witnesses which are for the time being observed by the Supreme Court shall be observed in the case of witnesses before Parliament or any committee.

Certificate issued to witness making full disclosure to be a bar to civil or criminal proceedings.

30. (1) Every witness before Parliament or a committee who shall answer fully and faithfully any questions put to him by Parliament or such committee to its satisfaction shall be entitled to receive a certificate under the hand of the President or Speaker or the chairman of the committee or presiding member (as the case may be) stating that such witness was upon his examination so required to answer and did answer any such questions.

(2) On production of such certificate to any court of law such court shall stay any proceedings civil or criminal against such witness for any act or thing done by him before that time and revealed by the evidence of such witness and may in its discretion award to such witness such expenses as he may have been put to.

(3) No statement made by any person in answer to a question put by or before Parliament or any committee shall except upon a charge of perjury be admissible in evidence against him in any proceedings civil or criminal.

Evidence of proceedings in House not to be given without leave.

31. No member or officer of Parliament and no shorthand-writer employed to take minutes of evidence before the House or any committee shall give evidence elsewhere in respect of the contents of any manuscript or document laid before the House or any committee or in respect of any proceedings or examination had at the Bar or before any committee of the House without the special leave of the House first had and obtained. Such special leave may be given during a recess by the President or Speaker (as the case may be) or if the Presidency or Speakership be vacant or the President or Speaker be ill or otherwise incapacitated or absent from the Colony by the clerk of the Legislative Council or Legislative Assembly (as the case may be).

SPECIAL DUTIES OF PERSONS IN RELATION TO PARLIAMENT.

32. (1) Where any member is pecuniarily interested in any contract or bargain made for or on account of the government of the Colony of the Central South African Railway Administration or the authority administering any public service which is common to the Transvaal and Orange River Colony not being a contract or bargain for the rendering of any service or for the supply of any thing by such government administration or authority at ordinary published tariff rates he shall make a full and true statement in writing of his interest in such contract or bargain to the clerk of the House of which he is a member.

Members pecuniarily interested in contracts or bargains to make disclosure thereof.

(2) Such statement shall be made within three months of the date when the member acquires such interest or if a member holds such interest at the date of his becoming a member then within three months of such date ; provided that in the case of a member holding such interest at the date of the taking effect of this Act such statement shall be made within three months of such last-mentioned date.

(3) Returns showing in a tabulated form the information furnished by members to the clerks of the Houses in accordance with the provisions of this section shall not less often than once in six months be prepared under the supervision of the President and Speaker and the returns so prepared shall as soon as may be after preparation be laid before each House.

(4) For the purposes of this section a member shall be deemed to be pecuniarily interested in any contract or bargain in which any limited liability company of which he is a director or under which he holds any office or position (other than that of auditor) is pecuniarily interested but shall not be deemed to be so interested in any contract or bargain by reason merely of the fact that he is a shareholder in the ordinary course in any such company which is interested in such contract or bargain ; provided however that a member who is a shareholder in any such company which undertakes a contract for the building of any public work shall be deemed to be pecuniarily interested in such contract.

(5) The holding of any bonds or stock issued for the purpose of or in respect of any loan for public purposes heretofore or hereafter raised by the Government of this Colony shall not be deemed to constitute an interest in a contract or bargain made for or on account of the Government of the Colony within the meaning of this section.

(6) Any member who acts in contravention of this section may be adjudged guilty of a contempt of Parliament by the House of which he is a member and may be punished as in this Act provided in cases of contempt of Parliament and shall incur a penalty not exceeding five hundred pounds, provided always that a member shall not be deemed to have contravened this section by reason of his failure to make such statement as is hereby required where such failure is due to illness absence from the Colony inadvertence or some other like cause and is not due to any want of good faith.

Members shall not vote upon or take part in the discussion of any matter in which they have a direct pecuniary interest.

No member etc. to receive compensation for promoting any bill.

Certain publications to be *prima facie* evidence on enquiries touching privilege.

Protection of parliamentary publications.

33. (1) A member shall not in or before Parliament or any committee vote upon or take part in the discussion of any matter in which he has a direct pecuniary interest.

(2) Any member who acts in contravention of this section may be adjudged guilty of a contempt of Parliament by the House of which he is a member and shall be subject to the same punishment and incur the same penalty as is provided in the case of contravention of the preceding section.

34. (1) No member and no attorney law agent or parliamentary agent who in the practice of his profession is a partner of any member shall accept or receive either directly or indirectly any fee compensation or reward for or in respect of the promotion of any bill resolution matter or thing submitted or intended to be submitted for the consideration of Parliament or of any committee.

(2) Any person acting in contravention of this section shall be liable to a penalty of fifty pounds sterling and in addition to repay the amount or the value of the fee compensation or reward accepted or received by him.

#### PARLIAMENTARY PUBLICATIONS.

35. (1) Subject to the provisions of this Act any copy of the journals of the Commons House of the Parliament of the United Kingdom printed or purporting to be printed by the order or by the printer of the Commons House aforesaid shall be received as *prima facie* evidence without proof of its being such copy upon any enquiry touching the privileges immunities and powers of the Legislative Council and Legislative Assembly or either of them or of any committee or member.

(2) Upon any enquiry touching the privileges immunities and powers of Parliament or of any member any copy of the minutes votes or journals printed or purporting to be printed by order of Parliament shall be admitted as evidence of such journals in all courts and places without any proof being given that such copies were so printed.

\*36. Any person being a defendant in any civil or criminal proceedings instituted for or on account or in respect of the publication of any reports papers minutes votes or proceedings by such person or by his servant by order or under the authority of Parliament or any committee may on giving to the plaintiff or prosecutor (as the case may be) twenty-four hours' notice of his intention bring before the court in which such proceeding shall be held a certificate under the hand of the President of the Council or Speaker of the Assembly or of the clerk of the Council or of the Assembly stating that the reports papers minutes votes or proceedings in respect whereof such civil or criminal proceedings have been instituted was or were published by such person or by his servants by order or under the authority of Parliament or any committee together with an affidavit verifying such certificate and such court shall thereupon immediately stay such civil or criminal proceedings and the same and every process issued therein shall be and is hereby deemed to be finally determined.

\* See Act No. 20 of 1909, sec. 28 (5).

37. In any civil or criminal proceedings instituted for printing any extract from or abstract of such report paper minutes votes or proceedings if the court or jury (as the case may be) shall be satisfied that such extract or abstract was published *bona fide* and without malice judgment or verdict (as the case may be) shall be entered for the defendant.

Publications of proceedings without malice.

38. A copy of any law now or hereafter in force or a copy of any report paper minutes or votes and proceedings of the Legislative Council constituted under Letters Patent dated the twenty-third day of September 1902 or of any committee of such Council or of Parliament or of any committee shall if such copy purports to be printed by the government printer the parliamentary printer or by or under the authority of such Council or committee of such Council or Parliament or any committee or by the President or Speaker be received in evidence in all courts and places whatever without proof of its being such copy and without proof that such copy was printed by such authority aforesaid.

Proof of acts reports minutes votes and proceedings.

39. Any person who shall print or cause to be printed any such copy in the last preceding section described as purports to have been printed by the government printer the parliamentary printer or by or under such authority as aforesaid and the same is not so printed or shall tender in evidence any such copy purporting to be so printed knowing that the same was not so printed shall be guilty of an offence and shall be liable upon conviction to imprisonment with hard labour for a period not exceeding three years.

Penalty for printing false copy of laws minutes or reports.

#### MISCELLANEOUS.

40. The standing rules and orders from time to time required in the execution of or to give effect to the provisions of this Act shall be framed and adopted by either House or by both Houses jointly (as the case may be) but the same shall not become binding and of force until approved by the Governor in Council in accordance with section XXXI of the Transvaal Constitution Letters Patent 1906.

Standing rules and orders to be framed subject to the Governor's approval.

41. The audit and control of the accounts and appropriation of the Legislative Council shall be vested in the President thereof and the audit and control of the accounts and appropriation of the Legislative Assembly and of the joint parliamentary expenses of both Houses of Parliament shall be vested in the Speaker of the Legislative Assembly and the audit of the accounts of all payments and receipts in reference to all matters affecting the service of the Legislative Council by the President and the audit of all payments and receipts in reference to all matters affecting the Legislative Assembly and of the joint parliamentary expenses by the Speaker shall be taken to be in all respects good and effectual anything to the contrary in any law notwithstanding; provided that in respect of the Legislative Council the internal arrangements or the finance committee and in respect of the Legislative Assembly and of the joint parliamentary expenses the public accounts committee shall exercise in regard thereto respectively such powers and give such directions as may from time to time be authorized by any order of the Legislative Council or the Legislative Assembly as the case may be.

Provisions for final audit of accounts by President or Speaker.



Imprisonment  
for contraven-  
tion of Act.

42. Every person guilty of a contravention of this Act shall be liable (in addition to any other penalty to which he is by this Act or any other law liable) to imprisonment for such time during the session of Parliament then being held as is determined by the House before which such contravention is enquired into or if both Houses be sitting jointly then by such Houses jointly.

Recovery and  
appropriation  
of penalties.

43. All penalties and other moneys payable under this Act may be recovered in the Supreme Court at the suit of the Attorney-General if authorized by Parliament to take proceedings for recovery of the same and any sums so recovered shall be paid into the general revenue of the Colony.

All fines imposed for contraventions of this Act shall when recovered likewise be paid into the general revenue of the Colony.

Speaker to  
act notwith-  
standing  
dissolution of  
Parliament.

44. For the purposes of this Act the person who shall fill the office of Speaker of the Legislative Assembly at the time of any dissolution of Parliament shall be deemed to be the Speaker until a Speaker shall be chosen by the new Parliament.

This Act not  
to diminish  
the rights and  
privileges of  
Parliament.

45. It is hereby expressly declared and enacted that nothing herein contained shall be deemed directly or indirectly by implication or otherwise to diminish the rights privileges or powers of Parliament whether such rights privileges or powers are held by custom statute or otherwise in any manner whatsoever.

Title and  
date of  
taking effect.

46. This Act may be cited for all purposes as the Powers and Privileges of Parliament Act 1907 and shall take effect from the date of its first publication as an Act in the *Gazette*.\*

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\* This date was the 9th July, 1907.

Act No. 4 of 1907.]

[Took effect 9th July, 1907.

AN ACT

TO APPLY A SUM NOT EXCEEDING FIVE HUNDRED THOUSAND POUNDS STERLING TOWARDS THE SERVICE OF THE YEAR ENDING THE 30TH DAY OF JUNE 1908.

(Assented to 4th July, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. The Public Revenue of this Colony is hereby charged towards the Service of the year ending the 30th day of June 1908 with a sum not exceeding Five Hundred Thousand Pounds Sterling (£500,000) which sum shall be applied towards the Service of the year in conformity with the Estimates of the Expenditure for the year ending the 30th day of June 1907.

Public revenue charged with £500,000 towards service of year ending 30th June 1907.

2. This Act may be cited for all purposes as "The Appropriation (Part 1907-1908) Act 1907."

Title.

Act No. 5 of 1907.]

[Promulgated 2nd August, 1907.]

## †AN ACT

TO AMEND THE LEPROSY ORDINANCE 1904 SO AS TO ENABLE PERSONS SUBJECT TO DETENTION IN LEPER ASYLUMS TO BE SEGREGATED IN OTHER PLACES AND FOR OTHER PURPOSES.

(Assented to 26th July, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. *Repealed by Act No. 2, 1908, section six.*

2. (1) The Colonial Secretary may upon the recommendation of the principal medical officer of health for the Colony permit any person who is the subject of a detention order issued under the Leprosy Ordinance 1904 to be isolated or placed in quarantine in this Colony outside the limits of an asylum (as by such Ordinance defined) in such places and under such conditions as the said medical officer of health may determine but subject to regulations made under the powers by section *three* of this Act conferred; provided that no such person shall be isolated or placed in quarantine as aforesaid

(a) unless an application in writing be made by such person or if such person be a minor or otherwise subject to disability by his nearest relative if competent or by his lawful guardian; and

(b) unless the applicant or some other person on his behalf undertakes in writing that he will bear the whole expense of any such measures as may be prescribed for such isolation or quarantine.

(2) Any person who shall incite any person placed in isolation or quarantine under this section to break any condition prescribed as aforesaid or shall aid or abet any such person in breaking any such condition or who shall wilfully do any act calculated to prevent such person placed in quarantine from observing such conditions shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month and in case of a second or subsequent conviction the court may impose as a punishment a fine not exceeding fifty pounds or in default of payment imprisonment with or without hard labour for a period not exceeding three months or such period of imprisonment without the option of a fine.

† See Act No. 4 of 1908.

Appointment  
and duties  
of visiting  
committee.

Power of  
Colonial  
Secretary  
to allow  
segregation of  
lepers in  
places outside  
asylums.

\*3. The Governor in Council may in addition to the powers conferred by section *twenty-six* of the Leprosy Ordinance 1904 make alter or rescind regulations prescribing the conditions to be observed

Power of Governor in Council to make regulations.

(a) by persons isolated or placed in quarantine under this Act ;

(b) by other persons visiting the persons isolated or placed in quarantine as aforesaid ;

and may by such regulations prescribe, such penalties for a contravention thereof as are in the last preceding section mentioned.

4. (1) Upon any contravention of this Act or a regulation made thereunder or upon the recommendation of the principal medical officer of health aforesaid the Colonial Secretary may withdraw any permission granted under section *two* and thereupon the detention order therein mentioned the operation of which would be otherwise suspended by virtue of such permission shall be revived for all purposes or if it shall have expired a new detention order may be issued in lieu thereof.

Permission granted under section *two* may be withdrawn and isolated persons discharged by Colonial Secretary.

(2) The Colonial Secretary may upon the like recommendation discharge any person placed in isolation or quarantine under this Act from the operation thereof and thereupon such person shall be in the same position as if he had been discharged from any asylum under section *thirteen* of the Leprosy Ordinance 1904.

5. This Act may be cited for all purposes as the Leprosy Law Amendment Act 1907 shall be read as one with the Leprosy Ordinance 1904 and shall take effect from such date as the Governor may declare by Proclamation in the *Gazette*..†

Title and date of taking effect.

\* For regulations see Govt. Notice No. 1239 of 1909 (*Gazette*, 29/10/09).

† The date declared was 1st October, 1907 ; see Proclamation No. 83, Admn., 1907.

Act No. 6 of 1907.]

[Promulgated 2nd August, 1907..

## AN ACT

TO PROVIDE FOR THE CARE CUSTODY AND INSPECTION OF DOCUMENTS DEPOSITED WITH PARLIAMENT FOR THE PURPOSE OF PRIVATE BILLS TO BE INTRODUCED THEREIN; AND FURTHER TO PROVIDE FOR THE TAXATION OF COSTS INCURRED IN THE PROMOTION OF OR OPPOSITION TO SUCH PRIVATE BILLS.

(Assented to 26th July, 1907.)

WHEREAS it is expedient to make provision for the care custody and inspection of documents required in pursuance of the Standing Rules and Orders of either House of Parliament to be deposited in relation to a private bill of which due public notice of intention to promote the same has been given;

And whereas it is further expedient to make provision for taxing the costs and expenses to be charged by parliamentary agents and others in respect of private bills in Parliament and of the preparation introduction and passage through of or opposition to the same in the Legislative Council and the Legislative Assembly or in either of them;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of the Transvaal as follows :--

### PRELIMINARY.

1. In this Act, unless inconsistent with the context,  
"committee" shall mean a select committee of the Legislative Council or of the Legislative Assembly according as the proceedings in respect of which costs may be incurred be had or taken in the Legislative Council or the Legislative Assembly;  
"depository" shall mean any person being an officer in the public service to whom is assigned in accordance with section *two* the duty of receiving documents required by the standing rules and orders of the Legislative Council or Legislative Assembly to be deposited in relation to private bills to be introduced therein;  
"depositor" shall mean any person whose duty it is in accordance with the standing rules and orders either of the Legislative Council or Legislative Assembly to deposit any such documents or the agent of such person;  
"document" shall mean any map diagram plan section book writing or any extract therefrom;  
"petitioner" shall mean any person who may present a petition against a private bill or against any provision or statement therein;

Interpre-  
tation of  
terms.

“private bill” shall mean and include the several bills to which the standing orders of the Legislative Council and Legislative Assembly relating to private bills are respectively applicable ;

“promoter” shall mean and include any person whose name appears on any petition or bill as promoting the same ;

“taxing officer” shall mean the taxing officer of the Legislative Council or of the Legislative Assembly according as the costs to be taxed by such officer relate to proceedings had or taken in the Legislative Council or the Legislative Assembly.

## PART I.

### CARE CUSTODY AND INSPECTION OF DOCUMENTS DEPOSITED FOR PRIVATE BILLS.

\*2. It shall be lawful for the President of the Legislative Council or for the Speaker of the Legislative Assembly (as the case may be) to assign by notice in the *Gazette* under the hand of the clerk of such Council or Assembly (as the case may be) to any person being an officer of the public service the duty of receiving all documents required in pursuance of standing rules and orders to be deposited in relation to any private bill of the intention to introduce which into Parliament due public notice has been given.

Designation of depositories.

3. (1) As often as any depositor shall present any document to a depositary the depositary shall take charge of such document and give to the depositor a receipt for the same in the form prescribed by the standing rules and orders. The depositary shall make due provision for the care and custody of such document and shall for a reasonable time during office hours and on the payment of the fees in this section prescribed permit any interested person to inspect such document or to make copies of the whole or any part of the same.

Duties of depositary.

(2) A fee of two shillings and sixpence shall be payable by every person inspecting or copying the whole or any part of such document and in addition to such fee a further sum of one shilling shall be payable by such person for every hour after the first hour during which such inspection may continue.

4. Any neglect or refusal to carry out any provision of section *three* shall be deemed to be a contempt of Parliament in addition to the contempts and offences enumerated in section *sixteen* of the Powers and Privileges of Parliament Act 1907 and shall render the offender liable to be dealt with in manner provided by such Act or by the standing rules and orders aforesaid.

Penalty.

## PART II.

### TAXATION OF COSTS IN RESPECT OF PROMOTION OR OPPOSITION TO PRIVATE BILLS.

5. (1) The President of the Legislative Council shall appoint a fit person to be the taxing officer of the Legislative Council who shall hold his office during the pleasure of the President and

Appointment of taxation officers by President and Speaker respectively.

\* See Parliamentary Notice (*Gazette*, 6/9/07, p. 455).

execute the duties thereof in accordance with such directions as he may from time to time receive from the President.

(2) The Speaker of the Legislative Assembly shall appoint a fit person to be the taxing officer of the Legislative Assembly who shall hold his office during the pleasure of the Speaker and execute the duties thereof in accordance with such directions as he may from time to time receive from the Speaker.

\*6. The President and the Speaker may from time to time prepare and alter scales of charges which may be allowed to parliamentary agents and others upon taxation under this Act of bills of costs for or in connection with the promotion of or opposition to a private bill and the taxing officer shall in taxing any such bill of costs be guided as to the maximum amount to be allowed by the scale of charges so prepared.

7. Whenever the committee on a private bill shall decide that the preamble is not proved or after the preamble be proved there be inserted in such bill any provision for the protection of a petitioner or in order to protect the petitioner there be struck out of such bill any provision thereof and the committee shall further report with respect to any petition against such bill that a petitioner has been unreasonably or vexatiously subjected to expense in defending any right of his proposed to be interfered with by such bill such petitioner shall be entitled to recover from the promoters of such bill his costs in relation thereto or such portion thereof as the committee may think fit and such costs shall be taxed by the taxing officer; or the committee may with the consent of the parties affected award such a sum for costs as it may name; and in its report to the Legislative Council or Legislative Assembly (as the case may be) the committee shall state what portion of the costs and what sum for costs it has awarded together with the name of any party liable to pay the same and the name of the party entitled to receive the same.

8. When the committee on a private bill shall decide that the preamble is proved and further report that any promoter of the bill has been vexatiously subjected to expense in the promotion of the said bill by the opposition of any petitioner against the same then such promoter shall be entitled to recover from any such petitioner such portion of his costs of the promotion of the bill as the committee may think fit and such costs shall be taxed by the taxing officer or the committee with the consent of the parties affected may award such a sum for costs as it may name; and in its report to the Legislative Council or Legislative Assembly (as the case may be) the committee shall state what portion of the costs and what sum for costs it has awarded together with the name of any party liable to pay the same and the name of any party entitled to receive the same; provided always that no owner of land or any right or interest thereon or thereover who *bona fide* at his own sole risk and charge opposes a bill which proposes to take any portion of such land right or interest for the purposes of the bill shall be liable to any costs in respect of his opposition to such bill.

\* See Appendix F to Standing Orders of Legislative Assembly, pp. 210 to 218 of Official Publication of Standing Orders.

Preparation of scale of charges.

When committee report "preamble not proved" opponents to be entitled to recover costs.

When committee report "opposition unfounded" promoters to be entitled to recover costs.

9. (1) If any person on whom any demand shall be made by any parliamentary agent or other person for any costs charges or expenses incurred in respect of any proceedings in the Legislative Council or the Legislative Assembly or both such Council and Assembly relative to any private bill or to its preparation introduction into or passage through either such Council or Assembly or in opposing the same or if any parliamentary agent or other person claiming payment of any such costs charges or expenses makes application to the taxing officer for the taxation of such costs charges or expenses the taxing officer on receiving a true copy of such bill of costs charges and expenses duly delivered to the party charged therewith shall proceed to tax the same and allow such costs charges and expenses in accordance with the provisions of this Act and any scale made under section six.

Taxing officer to tax bills on application of the party chargeable or others.

(2) If either party to such taxation having due notice thereof neglects to attend such taxation the taxing officer may proceed to tax and settle such bill of costs *ex parte* and if pending such taxation any legal proceedings are instituted for the recovery of the amount of such costs the court before which such proceedings are brought shall stay the further prosecution thereof until the amount thereof has been duly certified by the President of the Legislative Council or the Speaker of the Legislative Assembly as hereinafter provided.

10. (1) In all cases of taxation under this Act the taxing officer shall report his taxation to the President or the Speaker (as the case may be) and in such report shall state the amount fairly chargeable in respect of such costs charges and expenses together with the amount of the costs and fees payable in respect of such taxation.

Taxing officer to report to President or Speaker all cases of taxation and make further reports of objections.

(2) If either party to the taxation within twenty-one days after such report has been made shall deposit with the President or Speaker as the case may be a petition complaining of such report or any part thereof the President or Speaker may if he think fit refer the same together with such report to the taxing officer and may require a further report in relation thereto and on receiving such further report may direct the taxing officer to amend his first report or may confirm either such report; and if no such petition shall be deposited or as soon as any such report shall have been confirmed the President or Speaker shall upon application made to him cause to be delivered to any party concerned therein a certificate of the amount chargeable and such certificate shall be binding and conclusive for all purposes on the parties as to the matters comprised in such taxation as to the amount of such costs and charges and as to the amount due on the same and on the costs and fees payable for such taxation and such amounts shall be recoverable in any competent court upon the production of such certificate.

11. (1) For the purpose of any such taxation as is provided for in this Act the taxing officer may examine upon oath any party to such taxation and any witnesses in relation thereto and may himself take affidavits or declarations or receive affidavits or declarations taken before any justice of the peace relative to such costs charges or expenses and any person who on such examination upon oath or in any such affidavit or declaration shall wilfully

Taxing officer may examine parties and others on oath and for books call papers etc.



or corruptly give false evidence shall be guilty of an offence and shall be liable on conviction to the penalties prescribed by law for perjury.

What fees to be taken by taxing officer.

(2) The taxing officer shall be empowered to call for the production of any documents in the custody or under the control of any party to such taxation relative to the matters of such taxation.

\*12. It shall be lawful for the taxing officer to demand and receive for any taxation such fees as the President of the Legislative Council or the Speaker of the Legislative Assembly (as the case may be) may from time to time authorize and direct and to award the costs of taxation against either party to such taxation or in such proportion against either party as he may think fit and all such fees as aforesaid shall be paid by revenue stamps to be affixed on such bills of costs and such stamps shall be duly defaced by such taxing officer in manner prescribed by law for the defacement of stamps on instruments liable to stamp duty.

Title and date of taking effect.

13. This Act may be cited for all purposes as the Private Bills (Deposit of Documents and Taxation of Costs) Act 1907 and shall take effect on the date of its first publication as an Act in the *Gazette*.†

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\* See Appendix F (VII) of Standing Orders of Legislative Assembly ; p. 218 of Official Publication of S. O.

† Such date was the 2nd August, 1907.

Act No. 7 of 1907.] [Promulgated 9th August, 1907.]

AN ACT

TO PROVIDE FOR THE RECOGNITION IN THIS COLONY OF TRUSTEES AND LIQUIDATORS APPOINTED IN OTHER PARTS OF HIS MAJESTY'S DOMINIONS.

(Assented to 2nd August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows ;

1. In this Act unless inconsistent with the context ;
- “British possession” shall mean and include any of His Majesty's dominions other than this Colony and any territory under the protection of His Majesty ;
- “foreign trustee” shall mean and include a person duly appointed in any British possession for the purpose of administering liquidating and distributing any bankrupt or insolvent estate ;
- “foreign liquidator” shall mean and include a person duly appointed in any British possession for the purpose of liquidating any company ;
- “immovable property” shall mean land or any interest in land registered in the office of the Registrar of Deeds or Registrar of Mining Rights or other registration officer ;
- “letter of appointment” shall mean and include every document issued and delivered (or a copy of such document duly certified by a competent judicial authority in any British possession) under which any person is appointed to perform in such British possession duties in relation to any bankrupt or insolvent estate or to any company in liquidation similar to those performed in this Colony by trustees of insolvent estates or by liquidators respectively ;
- “local creditor” shall mean and include
- (1) a creditor resident or carrying on business in this Colony ;
  - (2) a creditor who is such by virtue of any right or claim against the estate first accruing to a creditor resident or carrying on business in this Colony ;
  - (3) a creditor who is such by virtue of any debt or obligation registered in the office of the Registrar of Deeds or Registrar of Mining Rights or other registration officer ;
- “Master” shall mean the Master or Assistant Master of the Supreme Court of this Colony or any person lawfully acting in such capacity ;

Interpretation  
of terms.

“movable property” shall mean every kind of property and every right interest or asset which is not immovable property.

Reciprocal operation of Act as regards particular British possessions.

\*2. The provisions of this Act shall come into force as regards any British possession as and from the date of the publication in the *Gazette* of a proclamation declaring that there is in force in such possession due provision for the recognition of letters of appointment of trustees in insolvency and liquidators granted by competent authority in this Colony and such provisions shall remain in force until the publication of a further proclamation declaring that such provision is no longer in force in such British possession and thereby withdrawing in respect of it the operation of this Act.

Order of Court recognizing foreign trustee or liquidator and effect of the same.

3. The Supreme Court may order the recognition within this Colony of any foreign trustee or foreign liquidator who has specified in writing a place in this Colony as *domicilium citandi* on production to it of the letter of appointment of such foreign trustee or foreign liquidator and thereupon the property in this Colony of the bankrupt insolvent or company in liquidation in respect of which the letter of appointment was made shall vest in such foreign trustee or foreign liquidator for the purpose of the bankruptcy insolvency or liquidation as though such property were the property of an insolvent estate sequestered or company placed in liquidation by order of a competent court of this Colony but subject to the provisions hereinafter made ; and the Registrar of the Supreme Court shall forthwith transmit a duplicate of such order to the Master to the Registrar of Deeds and to the Registrar of Mining Rights and the Master shall upon the request of such foreign trustee or foreign liquidator instruct the Sheriff to enter and lay an attachment upon the movable property of the bankrupt insolvent or company in liquidation (as the case may be) and the Sheriff shall attach such property in the same manner as he would attach property of an insolvent estate sequestered in this Colony.

Lodging of inventory with Master by foreign trustee or foreign liquidator.

4. The foreign trustee or foreign liquidator shall forthwith lodge with the Master an inventory verified by affidavit showing the assets of such estate or company in this Colony and the value thereof and shall give security to the satisfaction of the Master for the due administration of such assets in this Colony for due compliance with the provisions of this Act for the payment of all fees and charges due under the laws of this Colony and for the payment of any penalty or costs which he may be adjudged liable to pay under the provisions of this Act ; provided always that the Master may at any time demand such further security as he may deem necessary and if such further security be not furnished within a reasonable time the Master may apply to the Supreme Court by way of motion for an order compelling the foreign trustee or foreign liquidator to furnish such further security as the Court may direct.

\* This Act was put in force as regards Cape Colony on the 20th March, 1908, by Proc. (Admn.) No. 30 of 1908, and as regards Orange River Colony on 5th September, 1908, by Proc. (Admn.) No. 70 of 1908.

1795 ✓

Laws of Colony to apply as to admission and rejection of aims and mortgage and reference.

Sec 3.

*La Expansi Parrens' Trustee (1905)*  
*LP.O. 78*

*Re Leveber Officiers Ltd. (1905)*  
*TP.O. 529*

dging of amount of administration and distribution assets.

an of distribution.

confirmation account and plan of distribution.

When balance available for payment of general creditors.

Inpaid dividends to be paid into Guardian's Fund.

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• (1795(6))

Reciprocal  
operation of  
Act as regards  
particular  
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possessions.

\*2. The  
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Order of Court  
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5. The proof and admission or rejection of claims against such estate or company and its liability for the same to the extent of its property the application of such property as well as all questions of mortgage or preference in respect thereof shall be regulated as if the estate were sequestrated or company placed in liquidation by order of a competent court in this Colony; provided always that the Master shall appoint not less than two public meetings of creditors (to be held at such times and places as he shall deem most convenient for all concerned) for receiving proofs of debt against the estate and the second of such meetings shall be held not less than fourteen days after the first and none but local creditors shall be entitled to prove their claims thereat; provided further that the foreign trustee or foreign liquidator shall advertise such meetings in the *Gazette* and in such newspaper circulating in the Colony as the Master may direct.

Laws of Colony to apply as to admission and rejection of claims and mortgage and preference.

6. The foreign trustee or foreign liquidator shall lodge with the Master at any time appointed by any law in force in this Colony relating to insolvency and subject to any conditions therein contained as to extension of time on account of his administration of the property in this Colony a plan of distribution and (if necessary) a plan of contribution.

Lodging of account of administration and distribution of assets.

7. The plan of distribution shall show

Plan of distribution.

(a) all claims entitled to be preferably ranked against the proceeds of the local assets and the proposed application of such assets in satisfaction thereof;

(b) the balance remaining in this Colony for distribution among the general body of creditors; and

(c) the names of all creditors who have proved their claims in this Colony to the satisfaction of the Master together with the amounts of such claims.

8. The publication and confirmation of every such account and plan as aforesaid and the payment of dividends and the collection of contributions thereunder shall be governed as far as may be by the law and practice in force for the time being in this Colony relating to insolvency.

Confirmation of account and plan of distribution.

9. Upon such confirmation the foreign trustee or foreign liquidator shall pay all costs of administration in this Colony and the claims of all local preferent creditors and thereafter the balance remaining shall be available for distribution among the general body of creditors including the local concurrent creditors; provided always that such balance shall remain in this Colony until the foreign trustee or foreign liquidator shall have lodged with the Master a duplicate of the final liquidation account of the general estate and the dividend payable to the local concurrent creditors out of such general estate shall have been paid out of such balance retained in this Colony in so far as it may allow of such payment.

When balance available for payment of general creditors.

10. All dividends awarded to local preferent creditors and unpaid at the end of six months from the confirmation of the account and plan of distribution mentioned in section *eight* of this Act and all dividends awarded to local concurrent creditors under the account mentioned in the last preceding section and unpaid at the end of six months after the receipt of such account by the

Unpaid dividends to be paid into Guardian's Fund.

Master shall be paid into the hands of the Master and be deposited by him in the Guardian's Fund for account of the persons entitled thereto. And if the foreign trustee or foreign liquidator shall fail to render the accounts required under this Act and to produce and lodge with the Master the acquittances of the creditors or otherwise to deposit the unclaimed dividends as aforesaid the Master may apply to the Supreme Court for an order compelling such trustee or liquidator to show cause why such account should not be rendered or such acquittances lodged and such Court may make such order as it shall think fit and adjudge such trustee or liquidator if he shall have wrongfully retained any such dividend to pay to the Colonial Treasurer by way of penalty within such time as to it shall seem fit any sum not exceeding the amount of the dividend so retained.

Costs. 11. The Court may order the costs adjudged to the Master upon any proceeding taken by him against a foreign trustee or foreign liquidator under this Act to be paid by such trustee or liquidator *de bonis propriis* and such foreign trustee or foreign liquidator shall in no case be at liberty to charge the same to the estate administered by him unless authorized so to do by the Supreme Court.

Payment of expenses and fees by trustee or liquidator. 12. The foreign trustee or foreign liquidator shall pay any expenses lawfully incurred by the Master in giving effect to the provisions of this Act together with such fees as are prescribed by any law for the time being in force relating to insolvency or liquidation of companies.

Release of sureties. 13. If no creditor shall prove any claim before the Master within the appointed time the Master may release the sureties of the foreign trustee or foreign liquidator upon payment of the fees and expenses prescribed by law.

Staying of actions against insolvent. 14. All actions pending against any bankrupt or insolvent whose estate is being administered by a foreign trustee or against a company the assets of which are being administered by a foreign liquidator shall upon recognition of such trustee or liquidator be stayed; provided that

(1) if the action be for any debt or demand the plaintiff may prove his claim together with the taxed costs of the action against the estate of the bankrupt or insolvent or the assets of the company; and if the bankrupt or insolvent be in prison under any arrest granted as security for such debt or demand he may be discharged from prison by a judge of the Supreme Court;

(2) if the action be for unliquidated damages the plaintiff may after reasonable notice to such trustee or liquidator requiring him to take up and defend the action proceed to obtain the judgment of the Court thereon and may further if such judgment be in his favour prove the same with any taxed costs of the action as a claim against the estate of the bankrupt or insolvent or the assets of the company.

Staying of action by insolvent. 15. Every action commenced by the bankrupt insolvent or company aforesaid shall upon the recognition of the foreign trustee of such bankrupt or insolvent or the foreign liquidator of

such company be stayed until such trustee or liquidator shall make election to prosecute or discontinue the same and he shall be bound to make such election within four weeks after notice to that effect shall have been served upon him by the defendant. Failing such election he shall be deemed to have abandoned such action.

16. In all matters not specially provided for in this Act the provisions of the law for the time being in force in this Colony relating to insolvent estates or liquidation of companies as the case may be shall *mutatis mutandis* apply.

Insolvency Law etc. to apply where no special provision contained.

17. Nothing in this Act contained shall be deemed to deprive the Supreme Court of any jurisdiction which it may have possessed before the taking effect of this Act to recognise for the purposes of the administration of any assets within this Colony any person appointed by competent authority outside this Colony to be trustee of a bankrupt or insolvent estate or liquidator of a company.

Saving of existing jurisdiction of Court.

18. This Act may be cited for all purposes as the Foreign Trustees and Foreign Liquidators Recognition Act 1907 and shall take effect on the first day of August, 1907.\*

Title and date of taking effect of Act.

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\* This Act was not promulgated until the 9th August, 1907.



Act No. 8 of 1907.]

[Promulgated 9th August, 1907..

## \*AN ACT

TO PROVIDE FOR THE RAISING OF A SUM OF FIVE MILLION POUNDS STERLING BY THE COLONY OF THE TRANSVAAL.

(Assented to 2nd August, 1907.)

WHEREAS it is desirable to raise a loan of five million pounds for the purposes set forth in the schedule to this Act ;

And whereas it is contemplated that this loan shall be guaranteed by the Imperial Treasury under an Act of Parliament of the United Kingdom ;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. In this Act unless inconsistent with the context ;

“ Governor ” shall mean the officer for the time being administering the Government of this Colony acting by and with the advice of the Executive Council thereof ;

“ Treasury ” shall mean His Majesty's Imperial Treasury.

2. The Governor may borrow the sum of five million pounds by means of the issue of inscribed stock under this Act.

3. The principal moneys and interest secured by the inscribed stock issued under the provisions of this Act and the sinking fund payments in respect thereof are hereby charged upon and made payable out of the general revenues and assets of the Colony with priority over any charges thereon not existing at the date of the passing of this Act.

4. Any sums issued out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland on account of the guarantee of the loan by the Treasury shall be repaid to the Treasury out of the general revenues and assets of the Colony with interest thereon at the rate of four per cent. per annum and shall be charged on those revenues and assets immediately after the charge for and in respect of the loan created under the preceding section of this Act.

5. The stock for the purposes of the loan shall be issued in England by the Bank of England under the provisions of the Act of the Imperial Parliament entitled The Colonial Stock Act of 1877 at such times and on such terms and at such rate of interest as the Governor with the consent of the Treasury may determine.

6. All the inscribed stock which may be created under the provisions of this Act shall be redeemable at par on a date to be named in that behalf by the Bank of England when issuing the

Interpretation  
of terms.

Governor  
may borrow  
five millions.

Loan to be a  
charge upon  
general  
revenues and  
assets.

Repayment to  
Treasury of  
payments on  
guarantee.

Borrowing  
upon  
inscribed  
stock.

When the  
principal is to  
be repaid.

\* See Act No. 26 of 1907, sec. 21 ; Act No. 25 of 1908 ; Act No. 10 of 1909.

stock such date not being later than fifty years from the first day of July 1908. From and after that date all interest on the principal money secured by the stock shall cease and determine whether payment of the principal shall have been demanded or not.

7. The Governor shall in each half year remit

(1) a sum equal to one half year's interest on the whole of the outstanding stock; and

(2) an additional sum for the formation of a sinking fund equal to ten shillings per cent. on that amount or if the Treasury certify that a greater sum is necessary for making the sinking fund sufficient for the repayment of the loan at the expiration of fifty years such greater sum.

The amount for the payment of interest shall be remitted to the Bank of England in time to enable it to pay the current half year's interest on the day when it falls due.

The amount for the formation of the sinking fund shall be remitted to the Agent-General for the Transvaal.

The sums to be remitted under this section shall be appropriated and paid out of the general revenues and assets of the Colony.

8. The Trustees for the investment and management of the sinking fund shall be the Permanent Secretary of the Treasury the Permanent Under Secretary of State for the Colonies and the Agent-General for the Transvaal.

9. The Agent-General for the Transvaal shall pay over the money so remitted to him for the formation of a sinking fund to the Trustees of that fund who shall apply it to the purchase of the stock in the market whenever it can be purchased at a price less than par and failing such purchase shall invest such money in the purchase of such debentures stock or other security as may from time to time be approved by the Treasury and the Secretary of State for the Colonies and may from time to time with the like approval change any such investment and shall hold such fund in trust for the repayment of the principal moneys for the time being secured by the inscribed stock and the income arising from any stock purchased or any investments made under this section shall be applied or invested in the like manner and accumulated.

10. All expenses of or incidental to the management of the sinking fund shall be paid out of the sinking fund.

11. Any money raised under this Act shall subject to the provision made thereby for the expenses of the issue of the loan be applied for the purposes set forth in the Schedule to this Act.

The Governor may from time to time with the approval of the Secretary of State for the Colonies and upon a resolution to that effect passed by both Houses of the Parliament of this Colony apply any savings which may be made under either head in the Schedule to the other head.

12. The Governor may borrow from time to time in anticipation of the raising of the loan authorised by this Act any sum or sums by means of Transvaal Treasury Bills or in such other manner as the Governor with approval of the Treasury may

Provision of interest and sinking fund.

Trustees of the sinking fund.

Creation of sinking fund.

Expenses to be paid out of sinking fund.

Application of money raised by loan.

Power to borrow in anticipation of loan.

determine. The monies so borrowed shall be repaid out of the loan to be raised under this Act and the interest thereon shall be paid out of the revenues of the Transvaal; provided always that the amount borrowed under this section and outstanding at any time shall not exceed the amount of the loan authorised under this Act. The provisions of sections *three four seven nine and thirteen* of this Act shall *mutatis mutandis* apply in respect of any sums borrowed under this section, as if the same had been borrowed by means of the issue of inscribed stock.

Management  
of loan.

13. (1) The Bank of England shall have the management of the loan and may issue stock certificates to bearer.

(2) The expenses of and incidental to the issue of the loan including any sum representing the difference (if any) between the par value of the loan and the amount actually realised shall be paid out of the proceeds of the loan and shall be deducted from the allocation of Head II of the Schedule and the expenses of the management of the loan shall be paid out of the general revenues of the Colony.

Title.

14. This Act may be for all purposes cited as the Transvaal Guaranteed Loan Act 1907 and shall take effect from the date of its first publication as an Act in the *Gazette*.\*

— — — — —  
*SCHEDULE.*

I.—Land and Agricultural Bank .. .. .	£2,500,000
II.—Railways, Public Works, Irrigation, Agricultural Settlement and Development .. .. .	2,500,000
	£5,000,000

\* Such date was the 9th August, 1907.

Act No. 9 of 1907.]

[Promulgated 16th August, 1907.]

## AN ACT

To ~~IMPOSE~~ <sup>Impose</sup> AN EXCISE DUTY UPON BEER BREWED IN THIS COLONY AND A CUSTOMS DUTY UPON BEER BREWED IN AND IMPORTED FROM ANY COLONY TERRITORY OR STATE BELONGING TO ANY CUSTOMS UNION WITH THE TRANSVAAL.

~~Assented to~~ <sup>Assented to</sup> 16th August, 1907

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. In this Act unless inconsistent with the context ;

Interpreta-  
tion of terms.

“beer” shall mean and include ale porter spruce beer lager beer black beer and every other spirituous liquor coming within the ordinary appellation of beer and exceeding three per cent. of proof spirit but shall not include Kaffir beer ;

“brewer” shall mean any person carrying on in this Colony the business of brewing beer ;

“Director” shall mean the Director of Customs or any other officer to whom may be assigned by the Colonial Treasurer the carrying out of this Act and the regulations made thereunder ;

“duty” shall mean the excise duty payable under this Act ;

“gallon” shall mean a liquid gallon imperial measure ;

“Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council thereof ;

“regulations” shall mean the regulations made and in force under section *seventeen* of this Act and “prescribed” shall mean prescribed by such regulations ;

“sent out” or “sent out from a brewery” shall in reference to beer mean made and issued from a brewery either for consumption in this Colony or for export beyond the boundaries thereof and shall be taken to refer to nett quantities only less an allowance of five per cent. for any beer which may have been destroyed as bad or returned to the brewery.

Any reference in this Act to the accounts and books of the business of a brewer shall refer to the accounts and books relating to the brewing of beer or the sale or sending out of beer.

\*2. Every brewer shall take out an annual licence to be obtained from the Director. The amount payable on such licence shall be one pound ; ~~and it shall not be necessary for a brewer to obtain any such licence as is described in sections six and seven of the Liquor Licensing Ordinance 1902 as a “brewer's liquor~~

Annual  
licence of  
brewer.

\* See Act No. 33 of 1909, sec. 7.

licence" in respect of the manufacture or sale of beer in the ordinary course of his trade; and sections *four five six* and *seven* of the said Liquor Licensing Ordinance 1902 so far as they may be inconsistent with the provisions of this section are hereby amended.

Excise duty upon beer.

3. A duty of fourpence shall be levied and paid upon every gallon of beer sent out from a brewery in this Colony save as in section *thirteen* is excepted; provided that under such regulations as may be made by the Governor in that behalf a rebate may be made of the whole or a portion of the duty on beer brewed from malt malted from barley grown in this Colony.

Duty payable quarterly.

4. Duty shall be paid quarterly for the periods ending thirty-first day of March thirtieth day of June thirtieth day of September and thirty-first day of December in every year.

Quarterly declaration of output.

\*5. Every brewer shall within four weeks after the close of each quarter furnish to the Director a declaration made in writing before a justice of the peace by himself or by the manager of a brewery setting forth in such form as may be prescribed the nett total number of gallons of beer sent out from the brewery during such quarter then closed.

Such declaration shall be accompanied by a certificate of a person approved by the Director stating

(1) that he has examined the accounts and books of the brewer; and

(2) that the same appear to have been properly kept and to show the nett quantity of beer sent out from the brewery; and

(3) that the number of gallons shown in the declaration is correct according to the said accounts.

Payment of duty.

6. The brewer shall with such declaration and certificate pay to the Director the duty upon the quantity of beer shown therein.

Remedy for delay or failure to furnish declaration and pay duty.

7. If such declaration and certificate be not furnished and duty paid as required by the Act the Director may take any action he may think fit for the purpose of ascertaining the quantity of beer sent out during the quarter and may charge the expenses of such action to the brewer and the brewer shall further be liable to a penalty not exceeding fifty pounds for every week in which he shall delay the furnishing of such declaration and certificate or the payment of such duty.

Security for payment of duty.

†8. The Director may if he think payment of duty to be insecure require a bond or security for due payment to be given in a form to be prescribed and after receipt of notice in writing of such requirement it shall not be lawful to brew or produce beer until such bond or security has been given to the satisfaction of the Director.

Examination of books and accounts.

9. The Director may from time to time prescribe the form in which the books and accounts of the business of a brewer shall be kept and may at all times cause such books and accounts to be examined by any person appointed by the Director for that purpose.

\* For form of declaration and certificate, see *Gazette*, 23rd August, 1907, p. 274.

† For form of bond, see *Gazette*, 23rd August, 1907, p. 274.

If from the report of any such person it shall appear that the books and accounts of the business are not kept according to the form prescribed or are not properly kept or do not properly show the quantities of beer sent out the Director may call upon the brewer for an explanation and if he is not satisfied he may appoint a competent person not in the employ of the Government to examine the books and accounts and decide upon the matter and his decision shall be final: the brewer shall take all necessary steps to have his books properly kept and make good any defect pointed out by such person.

10. If a brewer makes default in compliance with any provision of this Act hereinbefore contained or with any lawful requirement of the Director and continues such default after one month's notice in writing by the Director calling upon him to comply with any such provision or requirement the Director may by an order in writing suspend such brewer's licence until the terms of such notice have been complied with.

Suspension of licence for neglect to remedy defective book-keeping.

During such suspension the brewer shall not carry on any brewing; and if he shall continue to carry on brewing during the period of suspension he shall incur a penalty of fifty pounds for every day of such continuance.

11. If any return shall be falsely made or fraud practised in order to evade the payment of duty or the full amount thereof or with intent to obtain any exemption from or abatement of duty not allowable by this Act or regulation or if the books or accounts shall in any way be falsely kept or falsified the brewer or any other person concerned shall be guilty of an offence and shall be liable on conviction to the penalties prescribed by law for fraud and if the offender be the brewer he shall pay three times the amount of duty on any quantity of beer sent out from the brewery in excess of the quantity shown in the quarterly return.

Penalty for false returns and fraudulent practices.

12. The Director or any officer deputed by him may at all times enter any part of the premises of a brewery and make any inspection he may think fit and it shall be the duty of the brewer to give him every facility for such inspection and access to the books and accounts of the business.

Entry and inspection of premises.

13. Beer brewed in this Colony and exported beyond the limits thereof under such conditions as may be prescribed shall be exempt from duty.

Export and exemption from duty.

\*The form of claim for exemption from duty and the mode of passing and certifying such claim shall be as prescribed and the amounts so certified may be deducted from the next ensuing quarterly payment.

14. If any beer exempt from duty under the last preceding section is returned into this Colony without the consent of the Director after having been exported therefrom it shall be liable to confiscation together with all animals or vehicles used in connection with the conveyance of such beer and every person concerned in such return of beer shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for any term not exceeding six months or to both

Beer returned after being exported.

\* For form of claim for exemption from duty, see *Gazette*, 23rd August, 1907, p. 274.

such fine and imprisonment; provided that if the owner of any such animals or vehicles (not being himself a party to such offence) shall prove that they were used without any connivance on his part the same shall be exempt from confiscation.

Penalties for diluting or treating beer so as to increase its quantity.

15. Any brewer or seller of beer who shall water dilute mix or otherwise treat beer for the purpose of increasing the quantity thereof after the same has been sent out shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and imprisonment.

Abatement of duty in respect of beer used by His Majesty's forces.

†16. Under such regulations as may be prescribed in that behalf the Governor may allow either by free importation or rebate an abatement of the duties on such beer as is used by the members of His Majesty's regular forces.

Regulations.

†17. The Governor may make alter or rescind regulations not inconsistent with the provisions of this Act for the better carrying out of the objects and purposes thereof and may by such regulations prescribe penalties for a breach thereof not exceeding a fine of fifty pounds or in default of payment imprisonment with or without hard labour for a period of three months.

General penalties.

18. Any person guilty of an offence against this Act or regulations shall where no penalty is specially provided for such an offence be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Offences by company firm or partnership.

19. In the event of an offence against this Act or regulations by a company not being a firm or partnership the managing director or secretary or other person having control of the business in this Colony shall be liable to the penalties provided for such contravention; and if such offence be committed by a firm or partnership every member of such firm or partnership shall be liable to such penalties; provided that nothing in this section contained shall be deemed to exempt any other person from liability to such penalties.

Recovery of duty and penalties by action.  
Customs duty on beer brewed within customs union.

20. All duty and any penalties other than penalties for offences payable under this Act may be recovered by action in a competent court at the suit of the Director.

Title and date of taking effect.

21. A customs duty of fourpence per gallon shall be levied upon all beer brewed in any Colony Territory or State (being a party to a customs union with the Transvaal) which may be imported into this Colony.

\*22. This Act may be cited for all purposes as the Excise Act 1907 and shall come into operation upon a date to be fixed by proclamation of the Governor in the *Gazette*; provided that if it shall appear from the books or accounts of any brewer that a larger quantity of beer than is ordinarily sent out by such brewer has been sent out during the three months immediately prior to such date such brewer shall pay duty on the difference between such larger quantity and the quantity of beer sent out by such brewer during the three months ending the thirty-first day of March 1907.

† For regulations see Govt. Notice No. 945 of 1907 (*Gazette*, 23/8/07).

\* The Act came into operation 1st September, 1907; see Proclamation No. 71, Admn., 1907.

Act No. 10 of 1907.]

[Promulgated 16th August, 1907.]

## AN ACT

TO AMEND THE ARMS AND AMMUNITION ORDINANCE 1902.

(Assented to 13th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The Arms and Ammunition Ordinance 1902 shall be and is hereby repealed; provided that whenever in any other law reference is made to the said Ordinance or to any specific provision thereof such reference shall be deemed to be a reference to this Act or to any provision of this Act corresponding to such specific provision as circumstances may require.

Repeal of laws.

2. In this Act unless inconsistent with the context;

Interpretation of terms.

“ammunition” shall mean and include any cartridges (loaded or unloaded) bullets gunpowder percussion caps and any other articles used in the discharge of arms;

“area” shall mean a magisterial district of this Colony or such portion thereof as the Minister may appoint under section *three* of this Act;

“arm” or “arms” shall mean and include any gun rifle revolver pistol or other firearm not being a cannon or any material part of any arm as herein defined but shall not include an arm *bona fide* kept as a curio;

“cannon” shall mean and include any firearm which is ordinarily moved by vehicular or animal transport and is ordinarily fired from the ground or a fixed platform; but shall not include a cannon *bona fide* kept as a curio;

“cannon ammunition” shall include all ammunition as herein defined which is used in the discharge of cannon;

“dealer's licence” shall mean the licence issued in accordance with section *eight* of this Act to deal in arms and ammunition;

“Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council;

“gunpowder” shall include all explosives used in the discharge of arms;

“licence” shall mean exclusively a licence to possess arms issued under section *three* of this Act;

“licensed dealer” shall mean a person duly licensed in accordance with section *eight* or *nine* of this Act to deal in arms and ammunition;

“licence holder” shall mean exclusively a person duly licensed under section *three* to possess arms;



“rifle” shall mean any arm with one or more rifled barrels which is capable of being fired from the shoulder save and except such rifles (commonly called rook rifles or saloon rifles) as the Minister may by notice in the *Gazette* exclude from the scope of this definition;\*

“magistrate” shall include a resident magistrate and an assistant resident magistrate;

“Minister” shall mean the Colonial Secretary or such other Minister to whom the Governor may from time to time assign the carrying out of this Act;

“police officer” shall mean any member of a police force lawfully established in this Colony.

Licences to  
possess arms.

3. (1) No person shall have in his custody or possession any arm without a licence signed by a magistrate or such other person as the Minister may by notice in the *Gazette* appoint to issue in any area named in such notice licences to possess arms; and any person who shall have in his custody or possession any arm without a licence shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month or to both such fine and such imprisonment; provided always that nothing in this sub-section contained shall be deemed to apply to any licensed dealer nor to any person while actually employed by any such dealer to carry or convey arms for the purposes of his trade nor to any person who is entrusted by a licence holder with the temporary use or custody of any arm named in such licence; provided further that any person who by the death of a licence holder shall become entitled to possess any such arm as is named in such licence shall be free from the obligation to obtain a licence therefor until one month after the date of such arm coming into his possession.

(2) Every licence shall be in the form set forth in the First Schedule to this Act and shall be issued by the magistrate or such other person as aforesaid on application; provided that

(a) it shall be lawful for such magistrate or other person to refuse such application without reason assigned;

(b) no licence shall be issued to a native without the sanction of the Minister for Native Affairs;

(c) no licence shall be issued to any coloured person other than a native without the sanction of the Minister;

(d) every licence issued to a native or coloured person without the sanction first obtained of the Minister for Native Affairs or the Minister as the case may be shall be null and void;

(e) the magistrate or such other person shall forthwith report to the Minister every case in which he refuses an application for licence to possess any arm with his reason for such refusal.

(3) There shall be payable for licences the following fees:—

(i) In respect of a rifle; ten shillings.

(ii) In respect of any other firearm; five shillings.

4. Every licence shall remain valid so long as the arm in respect of which such licence was issued shall not have been transferred by the licence holder to any other person except for such

\* For classes of rifles excluded see Govt. Notice No. 967 of 1907 (*Gazette*, 30/8/07).

temporary use or custody as in sub-section (1) of this section is mentioned; provided that it shall be lawful for the Governor to revoke any licence to possess a rifle or revolver on his being satisfied that the continued possession of such rifle or revolver by the licence holder constitutes a danger to the peace or unduly interferes with the proper administration of any law for the preservation of game and upon such revocation such licence holder shall within fourteen days after the date of the receipt by him of notice of such revocation surrender to a magistrate of the magisterial district in which he resides or to such other person as may be named in such notice every rifle or revolver and all rifle or revolver ammunition then in his possession and if such licence holder fail to comply with the requirements of such notice he shall be guilty of an offence and shall be liable on conviction to the penalties prescribed by sub-section (1) of this section.

4. (1) Whenever any arm for a licence to possess which application is made is not marked with such name or figure or in such other manner that it may be readily identified the magistrate or other person to whom such application is made shall before granting the same require the applicant to produce to him the said arm and thereupon cause the same to be stamped (but so as not to injure or disfigure it) with such distinctive letter or mark for the area in which the licence is issued as shall be notified by the Minister in the *Gazette*. \*such letter or mark shall be set forth on the licence and such arm so duly marked shall with such licence be delivered to the applicant.

Marking of arms for which licence is issued.

(2) If any person shall wilfully obliterate deface alter counterfeit or forge any letter or mark stamped on any arm in accordance with this section or with any provision of the Arms and Ammunition Ordinance 1902 or shall stamp any arm with any letter or mark resembling or intended to resemble any letter or mark stamped or used by such magistrate or other person or stamped on any arm under the said Ordinance with intent to expose any person to any penalty or to defraud the public revenue of any fee payable under this Act or with intent to commit any other fraud such person shall be liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and such imprisonment.

5. (1) Every magistrate or other person appointed to issue licences in any area shall keep a register of all licences issued by him in such form and manner as the Minister may from time to time prescribe and it shall be lawful for any police officer not below the rank of sergeant or any other police officer authorized in writing by such first-named officer to inspect such register at any time during office hours and to take any copy or extract therefrom.

Register of licences and returns of rifles.

(2) Every resident magistrate shall on or before the thirty-first day of January and the thirty-first day of July in every

\* For distinctive letters and marks for various areas see Govt. Notice No. 964 of 1907 (*Gazette*, 30/8/07).

year make a return to the Minister in the form prescribed by him from time to time of all licences to possess rifles issued within his magisterial district during the half-year ending the thirty-first day of December and thirtieth day of June immediately preceding.

Procedure where licence is lost etc.

6. If any licence shall be lost defaced or destroyed any magistrate in the magisterial district in which the person to whom such licence was issued resides shall on application by such person and on such magistrate being satisfied of the fact of such loss defacement or destruction grant to such person a certificate in the form set forth in the Second Schedule to this Act and such certificate shall be of the same validity as the licence so lost or defaced or destroyed.

Importation of rifles and ammunition therefor.

7. (1) No person shall import into this Colony any rifle or rifle ammunition without an importer's licence signed by a magistrate and such licence shall be issued free of charge and shall be in the form set forth in the Third Schedule to this Act.

(2) The provisos set forth in sub-section (2) of section three of this Act shall *mutatis mutandis* apply in respect of the issue of an importer's licence under this section.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month or to both such fine and imprisonment.

Licence to deal in arms and ammunition.

8. (1) No person shall deal in arms or ammunition without a dealer's licence signed by a Receiver of Revenue for the magisterial district in which are situate the premises in which he intends to so deal. Such dealer's licence shall be in the form set forth in the Fourth Schedule to this Act and shall whenever issued expire on the thirty-first day of December next succeeding the date of its issue; provided that no such licence shall authorize the holder thereof to deal in arms or ammunition in more than one shop or store which shop or store shall be named in such licence.

(2) No dealer's licence shall be issued by any Receiver of Revenue without a certificate from the resident magistrate of the magisterial district in which such premises are situate that

(a) the applicant for such licence is a fit and proper person to deal in arms and ammunition; and that

(b) such premises are suitable for the storage of arms and ammunition and reasonably safe for such purpose;

nor unless the Minister or such public officer as he may appoint shall endorse on such certificate his sanction to the issue of such licence; and every dealer's licence issued by any Receiver of Revenue without such certificate and sanction first obtained shall be null and void.

\* (3) There shall be payable in respect of every dealer's licence taken out before the thirtieth day of June of any year the sum of twenty pounds and in respect of any dealer's licence taken out after that date the sum of ten pounds.

\* For fees of licence to deal in arms and ammunition, see now Act No. 15 of 1909, Second Schedule, item No. 11.

(4) Any person who except under the authority of a dealer's licence has in his custody or possession any arms or ammunition for the purposes of dealing in the same or sells any arm or ammunition shall whether such custody possession or sale be as principal or agent be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two years or to both such fine and such imprisonment; provided always that nothing in this section contained shall be deemed to expose to any penalty

(a) a person licensed under this Act to possess any arm or any auctioneer employed by him to sell the same and ammunition therefor by public auction; or

(b) any person acting under the authority of a court of law; or

(c) any customs officer in the exercise or discharge of his duties or any auctioneer employed by such customs officer

in respect of the sale of any arms or ammunition to any person; provided further that no arms so sold shall be delivered to the purchaser until such purchaser not being a licensed dealer has obtained a licence to possess the same; provided also that every licence to deal in arms or ammunition issued under the Arms and Ammunition Ordinance 1902 shall be deemed to be valid for the purposes of this section until the expiry of the period for which it was issued.

9. No transfer or assignment of any dealer's licence shall be effected unless there be produced by the person to whom the licence is to be transferred or assigned a certificate of the resident magistrate of the magisterial district in which he resides that

Transfer of  
licence to  
deal in arms

(a) he is a fit and proper person to deal in arms and ammunition; and that

(b) the premises in which he intends so to deal are suitable for the storage of arms and ammunition and reasonably safe for such purpose;

nor unless the Minister or such public officer as he may appoint shall endorse on such certificate his sanction to the transfer or assignment of such licence. Every such transfer or assignment shall be effected by endorsement on such dealer's licence signed by the transferor or assignor and countersigned by such magistrate and shall bear a revenue stamp of the value of one pound which shall be defaced by such magistrate in manner prescribed by law for the defacement of stamps on documents liable to stamp duty.

10. If any licensed dealer desires to deal in arms and ammunition at any premises other than those for which he is licensed so to deal he shall apply to a receiver of revenue of the magisterial district in which such other premises are situate; and such receiver of revenue on the production to him of the certificate of the resident magistrate of such district that such other premises are suitable for the storage of arms and ammunition and reasonably safe for such purpose with an endorsement on such certificate of the sanction of the Minister or of such public officer as he may appoint thereto shall endorse on such licence a statement that from the date therein specified such licence is no longer valid for

Removal of  
licence.

the premises originally described in such licence but is until the date of the expiry of such licence valid for such other premises; and every such endorsement made by a receiver of revenue without such certificate and sanction shall be of no force and effect.

11. (1) Every licensed dealer shall cause to be painted on a conspicuous place on the walls or on a board affixed to a conspicuous place on the walls outside and over or near the door of the premises in respect of which he is licensed in letters publicly visible and legible at least one inch long his name in full or in case of a firm or partnership the name or style of the firm or partnership or in the case of a registered company the registered name of such company and after such name or style the words "licensed dealer (or dealers) in arms and ammunition"; and any such licensed dealer failing to comply with any requirement of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding fourteen days or to both such fine and such imprisonment.

(2) Every person other than a licensed dealer who shall paint on his premises or give any other notice importing that he does deal in arms or ammunition or is licensed so to deal shall be guilty of an offence and shall be liable on conviction to the penalties in section *eight* of the Act provided.

\*12. (1) Every licensed dealer shall keep a register in such form as the Minister may from time to time prescribe of all rifles and rifle ammunition received by him for the purpose of sale subsequent to the date of the taking effect of this Act and shall record in such register every sale or other mode of disposal of any such rifle or ammunition and the names and addresses of the persons to whom the same were delivered in pursuance of such sale or other transaction.

(2) Every licensed dealer shall on or before the fifteenth day of January and the fifteenth day of July in every year make a return in such form as the Minister may from time to time prescribe to the resident magistrate of the magisterial district in which such person is so dealing of all rifles and rifle ammunition received or disposed of by him during the half-year ending the thirty-first day of December and thirtieth day of June immediately preceding. Such return shall be in duplicate and one such return shall be retained by such magistrate and the duplicate transmitted by him to the Minister.

(3) Any licensed dealer who shall fail to comply with any requirement of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two months or to both such fine and imprisonment.

13. The register kept by a licensed dealer in accordance with the preceding section shall at all reasonable times be open to the inspection of any police officer not below the rank of sergeant

\* For particulars to be entered in register kept by licensed dealers see Govt. Notice No. 1162 of 1907 (*Gazette*, 18/10/07).

Notice to the public of the licence.

Licensed dealers to keep registers and make returns of rifles and ammunition therefor.

Inspection of dealer's register.

servicing in the magisterial district in which are situate the premises for which such dealer is licensed and of any other person authorized in writing by such officer or by a magistrate of such district; and any such dealer failing to produce such register on demand made by such officer or other person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months or to both such fine and such imprisonment; provided that no penalty shall be imposed on any licensed dealer for failure to produce such register in any case where he shall prove to the satisfaction of the court before which he is tried that the said register has been lost or destroyed without negligence or wilful default on his part.

14. Any licensed dealer who shall make any false entry in the register kept by him or in any return made by him in accordance with section *twelve* of this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and such imprisonment.

Penalty for false entries in register or returns.

15. (1) No licensed dealer shall without a permit transport or cause to be transported any arms or ammunition from the premises in respect of which he is licensed to any other place in or outside this Colony. Such permit shall be issued on application by any person duly authorized to issue licences or dealers' licences in the area for which such premises are licensed and a copy thereof shall forthwith be transmitted by the person issuing it to the resident magistrate of the magisterial district in which such other place is situate or if such place be outside this Colony to the Minister.

Transport of arms and ammunition.

(2) Any licensed dealer contravening the provisions of this section and any person in charge of any arms or ammunition transported as aforesaid who fails to produce on demand made by any police officer a permit to transport such arms or ammunition shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months or to both such fine and such imprisonment.

16. Any person who sells transfers or delivers except for temporary custody any arms or ammunition to any native or coloured person who has not obtained a licence issued under section *three* of this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two years or to both such fine and such imprisonment.

Penalty for selling or delivering arms to natives or coloured persons.

17. The Governor may from time to time by Proclamation in the *Gazette*

(a) prohibit the sale of any arms or ammunition for such arms in any magisterial district or portion of such district for such period as may be named in such Proclamation;

Power of Governor to prohibit the sale importation and transport of arms and ammunition.

(b) prohibit for a like period the importation of any particular description of arms or ammunition into this Colony ;

(c) prohibit for a like period the transportation of any particular description of arms or ammunition from any place in this Colony to any other place within or outside this Colony.

And any person who does any act in contravention of the terms of any such Proclamation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two years or to both such fine and such imprisonment.

Prohibition of importation and possession of cannon and ammunition.

18. No person shall import into or possess within this Colony any cannon or cannon ammunition ; and any person contravening the provisions of this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one thousand pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two years or to both such fine and imprisonment.

Power of police to arrest.

19. Any police officer not below the rank of sergeant may arrest without a warrant any person who is found in possession of any arms or ammunition or any cannon or cannon ammunition in contravention of the provisions of the Act and may seize such arms or ammunition or cannons or cannon ammunition wherever the same may be found.

Evidence.

20. (1) In any prosecution under this Act the burden of proving any fact which would be a defence to the charge made shall lie upon the person charged.

(2) Any person required by this Act to have any licence or permit shall be deemed to be without such licence or permit unless he shall produce the same to the court or give other satisfactory proof of possessing the same.

(3) Any occupier of premises and any person accompanying any wagon or vehicle in which any arms or ammunition or any cannon or cannon ammunition shall be found shall for the purposes of this Act be deemed till the contrary is proved to be the possessor of such arms or ammunition or cannon or cannon ammunition.

Liability to penalties in case of contravention of Act by company firm or partnership.

21. In the event of a contravention of this Act by a company the managing director or secretary or person having the management or control in this Colony of the business of such company shall be liable to the penalties provided for such contravention ; and in the event of such contravention by a firm or partnership every member of such firm or partnership shall be liable to the penalties aforesaid ; provided that nothing herein contained shall be deemed to exempt from such liability any person other than in this section described who may have been guilty of such contravention.

Special jurisdiction of courts of resident magistrates.

22. In any prosecution for an offence against this Act the court of resident magistrate having jurisdiction shall be empowered to impose the maximum penalties by this Act provided for any such offence.

23. (1) Any arms or ammunition or any cannon or cannon ammunition the subject of a conviction for any offence against this Act may be confiscated on the order of the court before which such conviction is obtained.

Confiscation of arms and application of penalties.

(2) All fines imposed and the amount realised by the sale of any arms or ammunition confiscated as aforesaid shall be paid into the general revenue of the Colony; provided that the court imposing any fine upon a conviction may order that a sum not exceeding one-half of such fine be paid to any person supplying the information on which such conviction was obtained.

24. Nothing in this Act contained shall apply to

Exemption from provisions of this Act.

(1) any arms or ammunition the property of His Majesty or of the Government of this Colony and temporarily in the possession of any of the following persons:

- (a) a person serving in His Majesty's Regular Forces;
- (b) a police officer;
- (c) a person serving in a Volunteer Corps constituted under the Volunteer Corps Ordinance 1904 or any amendment thereof;
- (d) a person in the employment of the Government of this Colony and authorized in writing by the Minister to possess such arms or ammunition;

(2) any arms possessed by and being a part of the prescribed equipment of any commissioned officer of the Regular Forces aforesaid or of any police officer above the rank of superintendent or of a commissioned officer of any such Volunteer Corps aforesaid;

(3) any cannon or cannon ammunition imported or possessed by or on behalf of the Government of this Colony or the Officer Commanding His Majesty's Regular Forces in South Africa.

25. This Act may be cited for all purposes as the Arms and Ammunition Act 1907 and shall not take effect unless and until the Governor shall proclaim in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall take effect upon such date as the Governor shall notify by Proclamation.\*

Title and date of taking effect.

FIRST SCHEDULE.

LICENCE TO POSSESS AN ARM.

Face.

Name in full of licensee.....  
 Residence.....  
 Sub-district.....  
 District.....  
 Description of arm.....  
 Marks.....  
 Issued at.....  
 Date.....

Signed.....

Back.

This endorsement to be made by person issuing when licence is issued to a native or coloured person.

I certify that the issue of this licence has been sanctioned by.....

Signed.....

\* See Proclamation No. 66 (Admn.) of 1907, notifying His Majesty's assent, and Proclamation No. 68 (Admn.) of 1907 notifying the 17th August, 1907, as the date of taking effect of Act.



SECOND SCHEDULE.

CERTIFICATE OF LOSS, DEFACEMENT, OR DESTRUCTION OF LICENCE.

Whereas on the.....day of.....
a licence to possess the following arm.....
bearing marks.....
was issued by.....
to.....
of.....

And whereas it has been proved to my satisfaction that the said licence has been.....

Now I do hereby grant the said.....
this certificate to be in lieu of the said licence and of the like force and effect.

Given under my hand at.....day of.....
this.....day of.....

Signed.....
Magistrate.

THIRD SCHEDULE.

LICENCE TO IMPORT RIFLE OR RIFLE AMMUNITION.

Face. Permission is hereby granted to.....
of.....to import into the Transvaal the following
arms and ammunition.....
This licence will expire on the.....
Dated this.....day of.....19....

Magistrate.

Back. This endorsement to be made by person issuing when licence is issued to a
native or coloured person.

I certify that the issue of this licence has been sanctioned by.....

Signed.....
Magistrate.

FOURTH SCHEDULE.

LICENCE TO DEAL IN ARMS AND AMMUNITION.

No.....

Face. Permission is hereby granted to.....
of.....
to deal in Arms and Ammunition at.....

.....from the date hereof until the
31st December, 19....

Dated this.....day of.....19....

Receiver of Revenue.

Back. I certify that the sanction of the Minister has been obtained for the issue
of this licence.

Receiver of Revenue.

Act No. 11 of 1907.]

[Promulgated 16th August, 1907.]

## AN ACT

TO PROVIDE FOR THE APPOINTMENT DUTIES AND REMUNERATION  
OF AN AGENT-GENERAL OF THIS COLONY.

(Assented to 13th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows.—

1. In this Act the term "Governor" shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council thereof.

Interpretation of term.

2. The Governor may from time to time appoint an officer to reside in the United Kingdom who shall be styled the Agent-General of the Transvaal and shall perform such duties as may be from time to time assigned to him by the Governor. The person holding such office at the date of the taking effect of this Act shall be deemed to have been appointed under this section.

Appointment and duties of Agent-General of Transvaal.

3. Any such appointment may be during the pleasure of the Governor or for a period not exceeding five years; provided that

Tenure of office.

(1) if such appointment be made after the date of the taking effect of this Act for a fixed period it may be terminated by notice of not less than six months by the Governor or the holder or by payment of six months' remuneration in lieu of such notice by the Governor;

(2) any person holding such office may be reappointed thereto on any such terms as are in this section mentioned.

4. The remuneration of the Agent-General shall be three thousand pounds per annum: two thousand pounds of each remuneration shall be termed salary and one thousand pounds shall be a personal allowance; provided that

Remuneration of Agent-General.

(1) the Governor may reduce or abolish such personal allowance when after the date of the taking effect of this Act he appoints an Agent-General or reappoints any previous holder of such office;

(2) if the person holding such office be in enjoyment of a pension payable out of the revenues of the Colony no such pension shall during his tenure of such office be paid to him;

(3) no pension shall be payable for the service rendered as Agent-General unless Parliament shall otherwise direct.

5. This Act may be cited for all purposes as the Agent-General's Act 1907 and shall take effect from the date of its first publication as an Act in the *Gazette*.\*

Title and date of taking effect.

\* This date was the 16th August, 1907.

Act No. 12 of 1907.]

[Promulgated 16th August, 1907.]

AN ACT

TO AMEND THE PROVISIONS OF THE TRANSVAAL CONSTITUTION LETTERS PATENT 1906 RELATING TO THE PAYMENT OF MEMBERS OF THE LEGISLATURE.

(Assented to 13th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Repeal of section *thirty-five* of the Transvaal Constitution Letters Patent 1906.

Interpretation of terms.

Payment for ordinary session of Parliament.

Payment for extraordinary session.

1. Section *thirty-five* of the Transvaal Constitution Letters Patent 1906 shall be and is hereby repealed.

2. In this Act unless inconsistent with the context
- “absent” in respect of a member shall mean absent from the House of Parliament or a committee of which he is a member during the whole of a working day for any cause other than his own sickness or injury;
  - “committee” shall have the same meaning as is assigned to it in the Powers and Privileges of Parliament Act 1907 or any amendment thereof;
  - “extraordinary session” shall mean any session of Parliament other than an ordinary session;
  - “member” shall mean a member of either House of Parliament (other than a Minister or the President of the Legislative Council);
  - “ordinary session” shall mean the session of Parliament at which the estimates of expenditure for the ordinary administrative services of a financial year are considered;
  - “session” shall mean an ordinary or an extraordinary session of Parliament;
  - “working day” shall mean in respect of a member any day during a session on which the House of Parliament or a committee of which he is a member meets.

3. There shall be paid to every member the sum of three hundred pounds in respect of every ordinary session of Parliament; provided that for every working day on which a member is absent there shall be deducted from such sum of three hundred pounds the sum of two pounds.

4. In respect of an extraordinary session there shall be paid to every member attending such session the sum of ten pounds together with a further sum of two pounds for every working day on which such member is not absent.

5. Payment of moneys due to members under this Act shall be made on the last working day of each session ; provided that if a member make request in writing to the clerk of the House of which he is a member there shall be paid to him on account on the last day of a month in any session the sum of two pounds for every working day on which he has not been absent and the balance of any moneys due to him under this Act shall be paid on the last working day of the session.

Time at which payments under this Act to be made.

\*6. This Act may be cited for all purposes as the Payment of Members of Parliament Act 1907 and shall not take effect unless and until the Governor shall have declared by Proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall take effect on such day as the Governor may by like Proclamation declare and whenever this Act shall take effect it shall be deemed to apply to the session commencing on the twenty-first day of March 1907.

Title and date of taking effect.

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\* See Proc. (Admn.) No. 67 of 1907 notifying His Majesty's assent to the Act, and Proc. (Admn.) No. 69 of 1907 notifying that day as the date of taking effect.

Act No. 13 of 1907.]

[Promulgated 16th August, 1907.]

## AN ACT

(TO AMEND THE GAME PRESERVATION ORDINANCE 1905.

(Assented to 13th August, 1907.)

WHEREAS it is expedient to amend the Game Preservation Ordinance 1905 (hereinafter described as the "principal law");

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:

Section *two* of the principal law shall be and is hereby amended by the addition thereto of the following definition:—  
"biltong" shall mean the flesh of game dried for purposes of preservation.

2. *Repealed by Act No. 11, 1909, section one.*

3. Section *four* of the principal law shall be and is hereby amended by the addition to sub-section (1) of the following new paragraph:—

"(j) regulating the sale of game or biltong."

4. Section *eight* of the principal law shall be and is hereby amended by the deletion of sub-section (c) and the substitution therefor of the following sub-section:—

(c) *For text see Ordinance No. 6, 1905, section eight (c).*

5. *Repealed by Act No. 11, 1909, section five.*

Amendment of section *two* of Ordinance No. 6 of 1905 to define biltong.

Amendment of section *three* of Ordinance No. 6 of 1905 relative to specially protected game.

Amendment of section *four* of Ordinance No. 6 of 1905 to enable regulations to be made as to the sale of biltong.

Amendment of section *eight* of Ordinance No. 6 of 1905 to prevent sale of specially protected game and to regulate the sale of biltong by holders of sale licences

Amendment of section *ten* of Ordinance No. 6 of 1905 as to rights of owner to hunt game and sell the same and biltong made therefrom.

6. Section *eighteen* of the principal law shall be and is hereby amended by the insertion therein immediately after the words "order that any game" of the words "or biltong."

Amendment of section *eighteen* of Ordinance No. 6 of 1905 so that biltong may be forfeited on convictions.

7. Whenever in the principal law the expression "this Ordinance" or "regulations" or "regulations made thereunder" is used any such expression shall be deemed to include respectively the principal law as amended by this Act and any regulations made under this Act.

Reference in principal law to the same or regulations to include reference to this Act or regulations made thereunder.

\*8. This Act may be cited for all purposes as the Game Preservation Amendment Act 1907 shall be read as one with the principal law and shall take effect on a date to be fixed by the Governor by Proclamation in the *Gazette*.

Title and date of taking effect.

\* Put into operation from 1st February, 1908, by Proc. (Admn.) No. 11 of 1908.

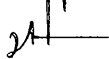
Act No. 14 of 1907.]

[Promulgated 21st August, 1907..

## AN ACT

TO PROVIDE FOR THE APPOINTMENT AND TENURE OF OFFICE AND TO DEFINE THE POWERS AND DUTIES OF THE AUDITOR-GENERAL; TO REGULATE THE RECEIPT CUSTODY AND ISSUE OF PUBLIC MONEYS AND TO PROVIDE FOR THE AUDIT OF THE ACCOUNTS OF THE COLONY.

(Assented to 15th August, 1907.)



WHEREAS it is desirable to provide for the appointment and tenure of office and to define the powers and duties of the Auditor-General to regulate the receipt custody and issue of public moneys and to provide for the audit of the accounts of the Colony;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of the Transvaal as follows:—

Interpretation of terms.

1. In this Act unless inconsistent with the context

- “Appropriation Act” shall mean any law appropriating public moneys for services as in such law specified;
- “bank” shall mean the bank or banks which is or are for the time being the authorized bank or banks of the Government of this Colony;
- “Exchequer Account” shall mean the account kept with the bank into which shall be paid all public revenues after deduction of any drawbacks repayments or discounts and into which shall further be paid all other public moneys;
- “financial year” shall mean the period from the first day of July in any year to the thirtieth day of June in the next succeeding year both days inclusive;
- “Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice and consent of the Executive Council thereof;
- “public moneys” shall include all public revenues and in addition the proceeds of all loans raised and all other moneys whatsoever received or held by for or on account of the Colony;
- “public revenues” shall mean all taxes imposts rates and duties and all territorial casual and other revenues of the Crown (including royalties) from whatever source arising within the Colony over which the Parliament of the Transvaal has power of appropriation;
- “Treasurer” shall mean the Colonial Treasurer or any person for the time being lawfully acting in such capacity.

APPOINTMENT REMOVAL FROM OFFICE AND DUTIES OF  
AUDITOR-GENERAL.

2. The Governor shall appoint an officer to be styled the Auditor-General and may appoint an officer to be styled the Assistant Auditor-General and neither of them shall be capable while holding the said office respectively of holding any other office of profit under the Crown. The annual salary of the Auditor-General shall not be less than one thousand five hundred pounds or more than one thousand eight hundred pounds.

Appointment of the Auditor-General and Assistant Auditor-General.

3. The Auditor-General shall hold office during good behaviour; provided that he shall be removed by the Governor on an address praying for such removal presented to the Governor by both Houses of Parliament; provided further that when Parliament is not in session it shall be lawful for the Governor to suspend such officer on the ground of incompetence or misbehaviour; and when and so often as such suspension shall take place a full statement of the circumstances shall be laid before both Houses of Parliament within fourteen days after the commencement of its next session; and if an address shall at any time during a session of Parliament be presented to the Governor by both Houses praying for the restoration to office of such officer he shall be restored accordingly; and if no such address be presented the Governor shall confirm such suspension and shall declare the office of Auditor-General to be and it shall thereupon become vacant.

Tenure of office of the Auditor-General and grounds upon which he may be removed or suspended.

4. On any vacancy occurring in the office of Auditor-General from death resignation or other cause the Governor shall appoint a person in his place.

Duty of Governor to fill vacancy in the office of Auditor-General.

5. Anything which under the authority of this Act is directed to be done by the Auditor-General may in his absence be done by the Assistant Auditor-General.

Powers of Acting Auditor-General and Assistant Auditor-General.

6. In the event of the illness suspension or absence from duty of the Auditor-General or Assistant Auditor-General the Governor may appoint some other person to act as Auditor-General or Assistant Auditor-General respectively during such illness suspension or absence and every such person while so acting shall have the powers and authorities and shall perform the duties by this Act or regulation made thereunder conferred and imposed on the Auditor-General or Assistant Auditor-General as the case may be.

Appointment of person to act in the event of illness etc. of Auditor-General.

7. The Auditor-General or any person duly authorized by him shall in accordance with such regulations as may be made by him from time to time in that behalf examine enquire into and audit the accounts of all persons entrusted with the collection receipt custody or issue of public moneys and also any other accounts of a public nature which may be prescribed by law or

General duty of Auditor-General to examine and audit accounts of public moneys.



indicated by the Governor ; any such \*regulations when approved by the Governor and published in the *Gazette* shall have the same force and effect as if they were contained in this Act and the same shall be laid upon the Table of both Houses of Parliament if then sitting or otherwise within seven days after the beginning of the Session of Parliament next ensuing ; provided that nothing in this section contained shall be deemed to apply to the accounts of either House of Parliament or to the accounts of expenditure upon services common to both Houses.

Power of Governor to exempt from detailed examination and audit accounts of certain departments.

8. The Governor may exempt from detailed examination or audit by the Auditor-General but not from an appropriation audit the accounts of any department the peculiar functions constitution or circumstances of which may render such exemption expedient ; provided that in his annual report the Auditor-General shall call attention to any such exemption allowed by the Governor.

Duty of Auditor-General to satisfy himself that laws and regulations relating to public money are observed.

9. The Auditor-General shall satisfy himself

(1) that all reasonable precautions have been taken to safeguard the proper collection of public revenues or other moneys due to the Government and that the laws and regulations relating thereto have been duly observed ;

(2) that all issues and payments are made in accordance with the proper authority and are supported by sufficient vouchers or proof of payment.

Power to admit unstamped vouchers.

10. Whenever it appears to him to be reasonable or expedient so to do the Auditor-General may admit or allow vouchers for any moneys expressed therein though such vouchers are not stamped according to law.

Powers of surcharge in case of actual or apparent deficiencies or improper payments.

11. If it shall appear to the Auditor-General

(1) that any deficiency has occurred in the collection of or accounting for public moneys ; or

(2) that any money has been improperly paid ; or

(3) that any moneys stamps securities or other Government property are deficient ;

and if a proper explanation be not furnished to him in regard to any such deficiency or improper payment or be delayed it shall be lawful for the Auditor-General to surcharge the amount of any such deficiency or improper payment against the person responsible therefor ; and the amount of such surcharge shall be a debt due from such person.

Notification of surcharges to the Treasurer.

12. The Auditor-General shall forthwith notify to the Treasurer any surcharge which may be made under the last preceding section and the Treasurer shall recover the amount thereof from the person liable to pay the same ; provided that unless the Governor otherwise directs the amount of any such surcharge which may be due from an officer of the public service shall be recovered in equal monthly instalments by deductions from the monthly salary of such officer not exceeding one-fourth of such monthly salary.

\* For regulations made under this section see Govt. Notice No. 1318 of 1907 (*Gazette*, 6/12/07).

13. The amount of such surcharge may be sued for and recovered on behalf of the Governor by action in any court of competent jurisdiction at the suit of the Treasurer and in the event of such action being instituted the proviso to the last preceding section shall not apply.

Mode of recovering surcharge.

14. It shall be lawful for the Auditor-General at any time to withdraw a surcharge in respect of which a satisfactory explanation has been received or if it shall otherwise appear that no surcharge should have been made; provided that he shall at once notify to the Treasurer any such withdrawal of surcharge.

Power of Auditor-General to withdraw surcharges if a satisfactory explanation is given.

15. Any person who is dissatisfied with any surcharge made by the Auditor-General may within one month after receiving notification thereof state a case for submission to the Governor who shall determine upon the merits of the case whether the surcharge shall be confirmed altered or remitted and shall forthwith cause his decision to be notified to the Auditor-General and person aforesaid.

Remedy of officer aggrieved by surcharge.

#### PUBLIC BANKING ARRANGEMENTS.

16. The Treasurer shall keep with the bank an account entitled the Exchequer Account.

Exchequer Account.

17. Notwithstanding anything in this Act or any other law contained it is hereby expressly enacted that in the case of moneys received by the Postmaster-General under the Post Office Savings Bank Proclamation 1902 or any amendment thereof and by the Master of the Supreme Court under the Administration of Estates Proclamation 1902 or any amendment thereof payment into the Exchequer Account shall only be made of such amounts as are available for investment after allowing reasonable working balances; the provisions of section *one hundred and three* of the last-named Proclamation so far as the same are inconsistent with the provisions of this Act shall be deemed to be hereby amended.

Special provisions as to post office savings bank and guardians fund moneys.

18. It shall not be lawful to withdraw any moneys from the Exchequer Account except in manner hereinafter provided.

Moneys to be withdrawn from Exchequer Account as provided by this Act.

19. When any public moneys have been appropriated by law for any specific purpose it shall be lawful for the Governor by warrant under his hand to authorize and require the Treasurer to issue the sums which may be required from time to time to meet the cost of such purpose not exceeding the total of the moneys so appropriated.

Governor's warrant for issue of moneys appropriated by law.

*\*20. If at any time when Parliament is not in session it shall appear to the Governor to be necessary in the public interest that an issue of public moneys should be made for a purpose not authorized by law or to meet an anticipated excess on an amount appropriated by law for any particular purpose when the excess cannot be met under the regulations made under sub-section (4) of section thirty-five of this Act, the Governor may, by special warrant under his hand, authorize*

Circumstances under which special warrants may be given for issue of moneys not appropriated by law and maximum aggregate amount of such issues.

\* This section substituted by Act No. 15 of 1908, sec. 1.

*such issues as may be required from time to time for such purposes; provided that the total sum outstanding at any time of the issues made under the powers of this section shall not exceed two hundred thousand pounds; provided further that all such outstanding sums shall be submitted to Parliament for sanction at its next ensuing session.*

Issue of public moneys to be made only on an order of the Treasurer countersigned by the Auditor-General.

21. No issues of public moneys which have been authorized in manner provided by sections *nineteen* and *twenty* of this Act shall be made except upon an order which specifies clearly the purpose for which the issue is to be made and is signed by the Treasurer or by some person nominated by him for such purpose and countersigned by the Auditor-General; such order shall direct the bank to issue from the Exchequer Account such sums as may be required; the Auditor-General before countersigning such order shall satisfy himself

(1) that the issues are in accordance with the provisions of any law appropriating such sums; or

(2) that the issues if authorized by special warrant as provided in section *twenty* do not in the aggregate exceed the maximum of two hundred thousand pounds by such section provided and are within the terms of such special warrant.

Order to be authority to bank to transfer specified amounts from Exchequer Account to Paymaster-General's Account.

22. (1) Any order mentioned in the last preceding section when countersigned by the Auditor-General shall be the necessary authority and direction to the bank to transfer in accordance with the tenor of such order the sums therein specified from the Exchequer Account to an account which the Treasurer shall keep with the bank entitled the Paymaster-General's Account and on receipt of such order the bank shall transfer such sums accordingly.

(2) All amounts so transferred shall be credited by the Treasurer in his records of the Paymaster-General's Account to the several accounts of the persons who may be appointed to account for such issues and every such person shall consider the issues so made to him as constituting part of his general drawing balance applicable to the payment of any service for which he is accountable.

Restriction on withdrawals from Exchequer Account in case of post office savings bank and guardians fund moneys.

23. No withdrawal from the Exchequer Account as against the moneys deposited therein under section *seventeen* of this Act shall be permitted except when such withdrawal is required

(1) for purposes of actual investment; or

(2) to enable the Postmaster-General to make payments of principal or interest due to depositors in the Post Office Savings Bank; or

(3) to enable the Master of the Supreme Court to make such payments other than for investment as he may by law be required to make;

and no issues from the Exchequer Account for any such purpose shall be made except upon an order which specifies clearly the purpose for which the issue is to be made and is signed by the Treasurer or by some person nominated by him for such purpose and countersigned by the Auditor-General; every such order shall direct the bank to issue from the Exchequer Account such sums as may be required.

24. If it shall appear to the Treasurer to be desirable that any balances lying idle in the Exchequer Account and not immediately required for public purposes should be temporarily invested he may in his discretion invest such balances or a portion thereof and it shall be lawful to make issues from the Exchequer Account for such purpose if an order be first completed as prescribed in the last preceding section ; provided always that the Auditor-General before countersigning such order shall satisfy himself that the issues are to be employed in making temporary investments.

Temporary investment of balances in Exchequer Account.

25. Whenever it may be necessary to withdraw from the Exchequer Account any moneys to which sections *twenty-one* *twenty-three* and *twenty-four* of this Act do not apply to wit any special moneys or deposits which may be temporarily entrusted to the care of the Treasurer the necessary withdrawals may be effected subject to the previous completion of an order in the manner prescribed in section *twenty-three*.

Mode of withdrawing from Exchequer Account moneys entrusted temporarily to Treasurer.

26. The orders mentioned in sections *twenty-three* *twenty-four* and *twenty-five* of this Act when countersigned by the Auditor-General shall be the necessary authority to the bank to release from the Exchequer Account the sums in any such order specified and to dispose of the sums so released according to the directions contained in such order.

Authority of bank to release moneys described in last three preceding sections.

27. If at any time it shall appear that the moneys in the Exchequer Account are likely during the next ensuing month to be insufficient to defray the duly authorized charges upon it in respect of such month the Treasurer shall prepare and submit to the Auditor-General a statement showing the amount of the estimated deficiency and the Auditor-General if satisfied with the correctness of the deficiency shall certify the amount thereof; and thereupon the Treasurer shall be empowered to obtain advances not exceeding in the aggregate the amount of the certified deficiency; and all such advances shall be placed to the credit of the Exchequer Account and be available to satisfy issues made in terms of this Act; and the principal of such advances together with any interest thereon shall be repaid in the succeeding month out of the growing balance of the Exchequer Account.

Advances to Treasurer to meet deficiencies in Exchequer Account.

#### APPROPRIATION FOR THE SERVICE OF A FINANCIAL YEAR.

28. Unless special provision to the contrary is made in an appropriation Act every appropriation by Parliament of public moneys for the services of any financial year shall lapse and cease to have any effect at the close of that year; and any balances of such appropriation which may then be unissued shall be written off and cease to be a liability of the Exchequer Account and the accounts of the year shall then be closed.

Duration of effect of an appropriation Act.

#### ANNUAL ACCOUNTS.

29. As soon as possible after the accounts have been closed in respect of any financial year the Treasurer shall transmit to the Auditor-General an account showing fully the true financial position of the Colony on the last day of such financial year.

Transmission to Auditor-General of account of financial position of Colony.

Transmission to Auditor-General of appropriation accounts by persons charged with accounting for public moneys.

Form of appropriation accounts.

Audit and examination of and report on appropriation accounts by Auditor-General.

Certificate of Auditor-General of examination of appropriation accounts and transmission of his report to Treasurer for presentation to Parliament.

Public accounts committee: its constitution and functions.

30. As soon as possible after the close of any financial year and in no case later than the thirtieth day of September next succeeding each person charged in the schedule annexed to any appropriation Act with the duty of accounting for any service provided for in such Act shall transmit to the Auditor-General accounts to be termed appropriation accounts showing the application of the amounts appropriated by law for his particular service for the financial year.

31. (1) Appropriation accounts shall show on the charge side thereof the sums appropriated by law for the service of the financial year and on the discharge side the sums which have actually come in course of payment within the same period.

(2) No imprest or advance of the application of which an account has not been rendered and allowed shall be included in the discharge side of any such appropriation account.

32. On receipt of the accounts prescribed by sections *twenty-nine* and *thirty* of this Act the Auditor-General shall cause them to be examined and audited and shall forthwith prepare a report dealing with every head of account and calling attention to

(1) every case where a grant appropriated by Parliament has been exceeded or appears to the Auditor-General to have been applied to any service or for any purpose other than that for which it was intended;

(2) any surcharge remitted under section *fifteen* of this Act;

(3) any special question of audit arising out of the accounts.

33. As soon as possible but in no case later than the first day of January next succeeding the close of a financial year the Auditor-General shall certify that he has examined the accounts prescribed by sections *twenty-nine* and *thirty* of this Act and shall transmit them together with his report to the Treasurer who shall cause such accounts and report to be presented to Parliament within fourteen days of their receipt by him or if Parliament be not in session within fourteen days after the commencement of its next session; provided that the Auditor-General may at any time if it appears to him to be desirable transmit a special report to the Treasurer for presentation within a like period to Parliament. Such special report may be made on any matter incidental to his powers and duties under this Act. If the Treasurer shall not within the time prescribed by this Act present to Parliament any report made by the Auditor-General in terms of this section the Auditor-General shall forthwith transmit such report to the President of the Legislative Council and Speaker of the Legislative Assembly to be by them respectively presented to the said Council and the said Assembly.

34. (1) A public accounts committee shall be appointed at the commencement of each ordinary session of Parliament by the Legislative Assembly from amongst its own members in accordance with any standing rules and orders of such Assembly.

(2) Such committee shall enquire into and report to the Legislative Assembly upon any question which may have arisen in connection with the accounts of the Colony and which may have been referred to the committee by a resolution of such Assembly.

\*35. The Treasurer may after consultation with the Auditor-General from time to time make alter or rescind regulations (not inconsistent with the provisions of this Act) as may appear to him to be necessary or expedient for the proper carrying out of its provisions and more particularly prescribing

Power of Treasurer to make regulations in consultation with the Auditor-General.

- (1) the number and form of all books statements accounts or returns to be kept or rendered by persons (other than the Auditor-General) affected by this Act ;
- (2) the system which shall be observed for the collection receipt banking custody issue expenditure due accounting for care and management of public moneys ;
- (3) the officers of the public service or other persons to be appointed from time to time to collect receive hold issue expend account for manage or otherwise deal with public moneys and the duties and responsibilities of such persons both in relation to the Government and to the Auditor-General ;
- (4) the conditions under which savings on any items or sub-heads of a grant appropriated by law for any particular service may be used to meet excesses on other items or sub-heads of the same grant ;
- (5) the form of the estimates of revenue and expenditure required by Parliament and the manner in which the material for such estimates shall be classified and submitted.

All such regulations when approved by the Governor and published in the *Gazette* shall have the same force and effect as if they were contained in this Act and the same shall be laid upon the Table of both Houses of Parliament in their sitting or otherwise within seven days after the beginning of the session of Parliament next ensuing.

† 36. This Act may be cited for all purposes as the Audit and Exchequer Act 1907 and shall take effect from the date of first publication as an Act in the *Gazette*.

Title and date of taking effect.

\* For Treasury regulations see Govt. Notice No. 1081 of 1909 (*Gazette* 17/9/09).

† This date was the 21st August, 1907.

Act No. 15 of 1907.]

[Promulgated 26th August, 1907.]

## \*AN ACT

TO PLACE RESTRICTIONS ON IMMIGRATION INTO THIS COLONY TO PROVIDE FOR THE REMOVAL THEREFROM OF PROHIBITED IMMIGRANTS AND OTHER PERSONS AND TO ESTABLISH AND MAINTAIN AN IMMIGRATION DEPARTMENT.

(Assented to 15th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of the Transvaal as follows:—

Repeal of  
Ordinance  
No. 5 of 1903.

1. The Peace Preservation Ordinance 1903 shall be and is hereby repealed; provided that no such repeal shall affect or abridge any powers or jurisdiction by the Asiatic Law Amendment Act 1907 conferred for the purpose of carrying out such Act; but the said Ordinance shall for all the purposes of such Act be deemed to remain of full force and effect.

Interpreta-  
tion of terms

2. In this Act and in any regulation made thereunder unless inconsistent with the context:

“department” shall mean the Immigration Department established and maintained under the provisions of this Act;

“Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council;

“imprisonment” shall mean imprisonment with or without hard labour as the court sentencing an offender to imprisonment may direct;

“magistrate” shall include a resident magistrate and an assistant resident magistrate of any district of the Colony;

“Minister” shall mean the Colonial Secretary or such other Minister to whom the Governor may from time to time assign the carrying out of this Act;

“minor” shall mean any person under the age of sixteen years;

“police officer” shall mean any member of a police force lawfully established in this Colony;

“prohibited immigrant” shall mean and include any of the following classes of persons desiring to enter or entering this Colony after the date of the taking effect of this Act:

(1) any person who when asked whether within or outside this Colony by a duly authorized officer shall be unable through deficient education to write out

\* See Act No. 36 of 1908.

(from dictation or otherwise) and sign in the characters of an European language an application for permission to enter this Colony or such other document as such officer may require ; provided that for the purposes of this sub-section Yiddish shall be accepted as an European language ; provided further that

(a) if the Minister publish a notice in the *Gazette* that arrangements have been made with the government of any country for regulating the admission to this Colony of the subjects or citizens of such country such subjects or citizens shall not while such notice is in force be required to comply with the provisions of this sub-section ;

(b) the Minister shall not issue any such notice unless such arrangements have been sanctioned by resolution of both Houses of Parliament ;

(c) any such notice shall cease to have effect as soon as it is cancelled by further notice of the Minister in the *Gazette* ;

- (2) any person who has not in his possession or at his disposal means to support himself for a reasonable time within this Colony or who is likely to become a public charge if he were allowed to enter therein ;
- (3) any prostitute or person living on the earnings of prostitution or procuring women for immoral purposes ;
- (4) any person who at the date of his entering or attempting to enter this Colony is subject or would if he entered this Colony be subject to the provisions of any law in force at such date which might render him liable either at such date or thereafter if found therein to be removed from or to be ordered to leave this Colony whether on conviction of an offence against such law or for failure to comply with its provisions or otherwise in accordance with its provisions ; provided that such conviction be not the result of the commission by such person elsewhere than in this Colony of an offence for which he has received a free pardon ;
- (5) any person who is a lunatic within the meaning of the Lunacy Proclamation 1902 or any amendment thereof ;
- (6) any person who is a leper or is suffering from such infectious or contagious disease of a loathsome or dangerous character as may from time to time be prescribed by regulation ;
- (7) any person who owing to information officially received by the Minister from any Secretary of State or from a member of any colonial government (whether British or foreign) or through diplomatic channels from an officer of any foreign state is deemed by the Minister to be an undesirable ;



- (8) any person who the Minister has reasonable grounds for believing would be dangerous to the peace order and good government of this Colony if he entered therein ;

but shall not include

(a) members of His Majesty's regular forces ;

(b) the officers and crew of any public ship of a foreign state ;

(c) any person who is duly accredited to this Colony by or under the authority of His Majesty or of the Government of a foreign state together with his wife family and servants ;

(d) any person who has served in any of His Majesty's volunteer forces in South Africa and has received a good discharge and who does not come within the scope of sub-sections (3) (4) (5) (6) (7) or (8) of the definition of " prohibited immigrant " ;

(e) the wife or minor child of any person who is not a " prohibited immigrant " ;

(f) any European person who has been at any time lawfully resident within this Colony and who has not under the provisions of any law been removed from or ordered to leave this Colony ;

(g) any Asiatic who is eligible for or has obtained a certificate of registration under the Asiatic Law Amendment Act 1907 and who does not come within the scope of sub-sections (3) (4) (5) (6) (7) or (8) of the definition of " prohibited immigrant " ;

\*(h) descendants of the aboriginal races of Africa south of the Equator who do not come within the scope of sub-sections (3) (4) (5) (6) (7) or (8) of the definition of " prohibited immigrant " ;

(i) European persons who are agricultural or domestic servants skilled artizans mechanics workmen or miners who are able to produce a certificate signed by the Agent-General of this Colony in England or by an officer in England or elsewhere appointed for the purpose by the Governor to the effect that the person named therein has been engaged to serve immediately on arrival in this Colony an employer therein of repute at an adequate remuneration and for a reasonable period of time ; provided that such persons do not come within the scope of any sub-section of the definition of " prohibited immigrant " other than sub-section (2).

\* A new sub-section (h) is substituted by Act 38, 1908, sec. 1, but that Act has not yet been put in force, and the original sub-sec. (h) is therefore given here..

“regulation” shall mean any regulation made under section *fifteen* of this Act.

3. (1) The Governor may establish and maintain out of moneys voted by Parliament for the purpose a department to be known as the “Immigration Department” which shall be under the control of the Minister and in charge of such officer as he may from time to time appoint.

Establishment functions and officers of the Immigration Department.

(2) The function of the department shall be the performance of all work whether within or outside this Colony necessary for or incidental to the prevention of the entrance into the Colony of prohibited immigrants or their removal therefrom and the carrying out of any powers or duties that may be specially conferred or imposed on it by this Act or by regulation.

(3) The Governor may from time to time appoint and remove such officers as he may think necessary or expedient to assist in the administration of the department who shall have such powers and perform such duties within or outside this Colony as may be conferred upon them by this Act or by regulation.

4. The Governor may from time to time enter into agreement with the Government of any colony or territory in South Africa for the doing of such acts or things as are necessary or expedient for the carrying out of the objects and purposes of this Act.

Agreements with governments of neighbouring colonies for the carrying out of Act.

5. Every prohibited immigrant entering into or found within this Colony shall be guilty of an offence and shall be liable on conviction

Penalties for prohibited immigration.

(1) to a fine not exceeding one hundred pounds or in default of payment to imprisonment for a period not exceeding six months or to both such fine and such imprisonment; and

(2) to be removed at any time from the Colony by warrant under the hand of the Minister and pending such removal to be detained in such custody as may by regulation be prescribed; provided that

(a) such prohibited immigrant may be discharged from such detention if he find two approved sureties in this Colony (each in the sum of one hundred pounds) for his leaving the Colony within one month;

(b) if such prohibited immigrant be sentenced to imprisonment such imprisonment shall terminate as soon as he is removed from the Colony.

† 6. Any person who

(a) is convicted after the date of the taking effect of this Act of a contravention of sections *three thirteen* or *twenty-one* of the Immorality Ordinance 1903 or any amendment of such sections; or

(b) is deemed by the Minister on reasonable grounds to be dangerous to the peace order and good government of this Colony if he remain therein; or

\* (c) having been ordered under any law to leave this Colony fails to comply with the terms of such order

may be arrested and removed from this Colony by warrant under

Removal from Colony of certain persons convicted under Immorality Ordinance 1903 and of dangerous persons.

† This section has been amended by Act No. 38 of 1908, which Act has not yet been put in force, and the original text is therefore given.

\* See Act No. 36 of 1908, sec. 16.

the hand of the Minister and pending removal may be detained in such custody as may be prescribed by regulation; provided that no such person as is in paragraph (b) hereof described shall be removed from this Colony except on the order of the Governor; provided further that every such person arrested shall be discharged from custody unless an order be made by the Governor for his removal from this Colony within ten days after the date of his arrest.

Offences of aiding or being accessory to prohibited immigration.

7. Any person who

(1) wilfully aids or abets a prohibited immigrant in entering or remaining in this Colony; or

(2) wilfully aids or abets a person ordered to be removed under section *six* in remaining in this Colony; or

(3) enters into or purports to enter into a contract as employer with any person outside this Colony with intent that the provisions of this Act be evaded or at the time of entering into or purporting to enter into such contract shall be unable to fulfil his part thereof or has no reasonable expectation of being so able; or

(4) uses or attempts to use any certificate issued under paragraph (i) of the classes of persons excluded from the definition of "prohibited immigrant" unless he be the lawful holder of such certificate; or

(5) forges or uses knowing the same to be forged any document purporting to be such certificate

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Prohibited immigrant not to obtain a licence to carry on trade or calling or acquire interest in land.

8. No prohibited immigrant shall be entitled to obtain a licence to carry on in this Colony any trade or calling or to acquire therein any interest in land whether leasehold freehold or other interest; and any such licence (if obtained) or any contract deed or other document by which such interest is acquired in contravention of this section shall on conviction of such immigrant under section *five* of this Act be null and void.

Arrest without warrant of persons suspected of being prohibited immigrants.

9. Every person found in this Colony who is reasonably suspected of being a prohibited immigrant may be arrested without warrant by any magistrate justice of the peace police officer or officer of the department and shall as soon as possible be brought before a court of resident magistrate to be dealt with according to law.

Prohibited immigrant not exempt from Act by reason that he was allowed to enter through oversight.

10. No prohibited immigrant shall be exempt from the provisions of this Act or allowed to remain in this Colony by reason only that he had not been informed that he could not enter this Colony or that he may have been allowed to enter through oversight or owing to the fact being undiscovered that he was a prohibited immigrant.

Prohibited immigrant etc. and person assisting him liable to pay expense of his removal and custody.

11. Any person ordered to be removed from this Colony under this Act and any other person who shall have been convicted under section *seven* of aiding or abetting him in entering or remaining in the Colony in contravention of this Act shall be liable to pay all expenditure incurred by the Government in carrying out such removal whether from the Colony or South Africa or in the detention within the Colony or elsewhere of any person

pending his removal ; and the amount of such expenditure on production to the Sheriff of the certificate of an officer of the department stating the items and total amount of such expenditure shall be recovered by execution levied on the property within the Colony of the person so liable in manner provided for execution levied under a judgment of the Supreme Court ; and the proceeds of such execution shall be paid by the Sheriff to the Treasurer who after deduction of the amount of expenditure aforesaid and the costs of execution shall remit the balance to the person so liable or to any person appointed by him to receive same.

12. (1) It shall be the duty of every keeper or person having the management of a place used as an hotel, boarding-house, lodging-house or other place wherein persons receive sleeping accommodation for money or valuable consideration to cause to be kept a book in which every person immediately he first receives such accommodation shall enter his name and place from which he last came.

(2) Every such book shall be open to the inspection of any police officer or officer of the department at all reasonable times.

(3) Any person failing to comply with the requirements of this section or obstructing or preventing any such officer in carrying out his powers thereunder or making any false entry in such book shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty pounds or in default of payment to imprisonment not exceeding one month or to both such fine and such imprisonment.

13. The burden of proving that a person has not entered or remained in this Colony in contravention of this Act or any regulation shall in any prosecution for such contravention lie upon the accused person.

14. Every court of resident magistrate shall have jurisdiction to impose the maximum penalties for all contraventions of this Act or of any regulation.

\*15. The Governor may from time to time make alter or rescind regulations not inconsistent with the provisions of this Act for all or any of the following purposes :—

- (a) prescribing the powers and duties of officers of the department ;
- (b) for preventing the entrance of prohibited immigrants into this Colony ;
- (c) for the removal from this Colony of persons ordered under this Act to be removed therefrom ;
- (d) for the detention pending removal of persons ordered under this Act to be removed from the Colony ;
- (e) prescribing the diseases which are infectious or contagious diseases for the purposes of sub-section (6) of the definition of " prohibited immigrant " ;
- (f) prescribing the forms of
  - (i) the certificate mentioned in paragraph (i) of the classes of persons excluded from the definition of " prohibited immigrant " ;

Keeping of books by hotel boarding-house and lodging-house keepers.

Evidence.

Special jurisdiction of resident magistrates.

Regulations for purposes of Act.

\* For regulations see Govt. Notices No. 1405 of 1907 (*Gazette*, 27/12/07), No. 1239 of 1909 (*Gazette*, 12/11/09).

(ii) the warrants to be issued by the Minister under sections *five* and *six* ;

(iii) the book to be kept under section *twelve* ;

(g) prescribing the conditions under which prohibited immigrants may be allowed to pass through this Colony while journeying to a place outside the same ;

(h) generally for the better carrying out of the objects and purposes of this Act ;

and may by any such regulations prescribe penalties for contraventions thereof not exceeding a fine of one hundred pounds or in default of payment imprisonment for a period not exceeding six months or both such fine and such imprisonment.

Title and date  
of taking  
effect.

†16. This Act may be cited for all purposes as the Immigrants Restriction Act 1907 and shall not take effect unless and until the Governor shall proclaim in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall take effect upon such date as the Governor shall notify by proclamation.

† See Proc. (Admn.) No. 101 of 1907 notifying His Majesty's assent to the Act, and Proc. (Admn.) No. 102 of 1907 putting the Act in force from 1st January, 1908.

Act No. 16 of 1907.]

[Promulgated 26th August, 1907.

AN ACT

TO AMEND THE LUNACY PROCLAMATION 1902.

(Assented to 15th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of the Transvaal as follows :—

†1. All the powers duties and authorities which are by the Lunacy Proclamation 1902 exercisable by the Governor (other than the power by section *sixty-five* of the said Proclamation on the Governor conferred) shall after the date of the taking effect of this Act be exercisable by the Minister and the term "Minister" shall mean

Vesting of certain functions exercisable by Governor under Proclamation (Transvaal) No. 36 of 1902 in Colonial Secretary or other Minister.

(a) the Colonial Secretary ; or

(b) such other Minister who from time to time may be directed under the said section *sixty-five* to exercise and perform the powers duties and authorities by the said Proclamation vested in and required to be performed by the Colonial Secretary ;

provided always that no order for the safe custody removal or discharge of

(1) a criminal lunatic under sentence of death ; or

(2) a person against whom criminal proceedings have been instituted on a charge of murder or culpable homicide and who is found by a court or jury or is certified to be insane ; shall be made by the Minister without the sanction of the Governor in Council.

\*2. This Act may be cited for all purposes as the Lunacy Law Amendment Act 1907 and shall take effect from the date of its first publication as an Act in the *Gazette*.

Title and date of taking effect.

† See Act No. 3 of 1908, sec. 3.

\* This date was the 26th August, 1907.

Act No. 17 of 1907.] [Promulgated 26th August, 1907.]

AN ACT

TO AMEND CERTAIN PROVISIONS OF THE CATTLE DISEASE (EAST COAST FEVER) ORDINANCE 1904 RELATING TO THE PROHIBITION OF THE TRANSFER OR MORTGAGE OF FARMS UNTIL THE COST OF FENCING THE SAME HAS BEEN PAID.

(Assented to 15th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Repeal of section *fifteen* of Ordinance No. 38 of 1904 and substitution of new provisions.

1. Section *fifteen* of the Cattle Disease (East Coast Fever) Ordinance 1904 shall be and is hereby repealed and there shall be substituted therefor the following provisions:—

15. *For text see Ordinance No. 38, 1904, section fifteen.*

Title and date of taking effect.

2. This Act may be cited for all purposes as the Cattle Disease (East Coast Fever) Amendment Act 1907 and shall be read as one with the Cattle Disease (East Coast Fever) Ordinance 1904. The Act shall take effect from the date of its first publication as an Act in the *Gazette* and shall apply in respect of fences erected under the said Ordinance whether before or after such date.\*

\* This date was the 26th August, 1907.

Act No. 18 of 1907.]

[Promulgated 26th August, 1907.]

## AN ACT

TO LIMIT THE RIGHT OF APPEAL TO THE SUPREME COURT AGAINST THE CONVICTIONS AND SENTENCES OF COURTS OF RESIDENT MAGISTRATE IN CASES WHERE THE APPELLANTS APPEAR IN PERSON BEFORE THE SUPREME COURT AND TO AMEND THE LAW WITH REGARD TO JUVENILE OFFENDERS.

(Assented to 15th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of the Transvaal as follows:—

1. (1) Notwithstanding anything in section *forty-two* of the Magistrate's Courts Proclamation 1902 or any amendment thereof whenever a person has been convicted and sentenced by a court of resident magistrate whether such conviction be on summary trial or on remittal by the Attorney-General and such person has noted an appeal to the Supreme Court against such conviction or sentence he shall not be entitled to prosecute such appeal in person unless a judge of the Supreme Court shall have certified that there are reasonable grounds for appeal.

Persons appealing against convictions and sentences of court of resident magistrate and desirous of prosecuting such appeals in person to first obtain certificate of judge that there are reasonable grounds of appeal.

(2) Any person convicted and sentenced as aforesaid and desiring to prosecute an appeal in person may transmit to the Registrar of the Supreme Court a certified copy of the records of the proceedings on which he was so convicted and sentenced together with a written statement setting out the grounds on which such appeal is based; and the said Registrar on receipt of such copy of records and statement shall forthwith lay the same before a judge in chambers who may grant or withhold the certificate aforesaid as to him shall seem right.

(3) If such certificate be granted the same procedure shall be followed in respect of the giving of notice and the fixing a day for the hearing of any such appeal as is prescribed by law in respect of notices and hearing of other appeals in criminal cases against the conviction or sentence of a court of resident magistrate.

(4) If the certificate be withheld the appeal shall not be placed on the roll for hearing until the Registrar of the Supreme Court is satisfied that counsel has been instructed to represent such appellant at the hearing of such appeal and when placed on the roll shall not be heard unless the appellant is represented by counsel.

2. Notwithstanding anything contained in section *thirty-nine* of the Magistrates' Courts Proclamation 1902 it shall not be necessary for a magistrate to forward to the Registrar of the Supreme Court for consideration by one of the members of such Court the record of proceedings in any case in which a male child not exceeding the age of fourteen years has been sentenced to receive a moderate correction with a cane or rod not exceeding fifteen cuts under section *thirty-six* of the said Proclamation.

Review by Supreme Court unnecessary in the case of certain sentences on juvenile offenders.

3. This Act may be cited for all purposes as the Criminal Appeals Amendment Act 1907 and shall take effect from the date of its first publication as an Act in the *Gazette*.\*

Title and date of taking effect.

\* This date was the 26th August, 1907.



Act No. 19 of 1907.]

[Promulgated 26th August, 1907.

AN ACT

TO SUSPEND TEMPORARILY AND IN CERTAIN CASES THE OPERATION OF SUB-SECTION (2) OF SECTION FIFTY OF THE TRANSVAAL CONSTITUTION LETTERS PATENT 1906 AND FOR OTHER PURPOSES.

(Assented to 16th August, 1907.)

WHEREAS it is provided by sub-section (2) of section *fifty* of the Transvaal Constitution Letters Patent 1906 that the Labour Importation Ordinance 1904 and all Ordinances amending the same and all rules and regulations made under the authority of the said Ordinances shall be repealed and cease to have effect on the termination of one year from the date of the first meeting of the Legislature of the Transvaal;

And whereas the first meeting of such Legislature was held on the twenty-first day of March 1907 and the said Ordinances and rules and regulations would in terms of the said section cease to have effect on the twenty-first day of March 1908;

And whereas it is expedient to provide for the regulation superintendence and control of labourers (as in the said Labour Importation Ordinance 1904 defined) the period of whose contracts will not have expired on such last-mentioned day and for their return to their country of origin at the expiration of such period;

And whereas it is further expedient to re-affirm the provision relating to the liability of importers (as in the said Labour Importation Ordinance 1904 defined) to defray the cost of returning to their country of origin the labourers who have been introduced into this Colony in terms of such Ordinance;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. In this Act;

“contract” “importer” and “labourer” shall have the same meanings as are respectively assigned to them in the Labour Importation Ordinance 1904;

“Governor” shall mean the officer for the time being administering the Government of this Colony acting by and with the advice of the Executive Council thereof;

“Letters Patent” shall mean the Transvaal Constitution Letters Patent 1906;

“Ordinance” shall mean and include the Labour Importation Ordinance 1904 (as amended by Ordinance No. 27 of 1905 and Ordinance No. 12 of 1906) and any regulations made thereunder.

Interpretation of terms.

*Indentured*  
Act No. 19.] *Labour Laws Temporary Continuance.* [A.S. 1907.]

2. (1) Notwithstanding anything contained in sub-section (2) of section *fifty* of the Letters Patent the Ordinance with the exception of sub-section (1) of section *ten* thereof, shall in respect of each labourer still in this Colony on the twenty-first day of March 1908 continue to be of full force and effect on and from such date until the expiry of the original period of three years for which a contract was entered into in respect of such labourer.

(2) For the purpose of carrying out in accordance with the Ordinance the return of labourers to their country of origin on the expiry of any such period the Ordinance (with the exception aforesaid) shall remain in force for such further period (not exceeding two months) as the Governor may determine.

3. Notwithstanding the prohibition in sub-section (1) of section *fifty* of the Letters Patent contained against the renewal after the commencement of the Letters Patent of any contract the cost of returning any labourer subsequent to such commencement to his country of origin at the expiry of the three years for which a contract was entered into in respect of such labourer shall be borne by the importer and the bond entered into by the importer in accordance with section *twenty-two* of the Ordinance shall remain of full force and effect.

\*4. This Act may be cited for all purposes as the Indentured Labour Laws Temporary Continuance Act 1907 and shall not take effect unless and until the Governor shall proclaim in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall take effect upon such date as the Governor shall notify by proclamation in the *Gazette*.

Ordinance No. 17 of 1904 and amendments thereof and regulations thereunder to remain in force on and after twenty-first day of March 1908 for certain purposes.

Cost of returning to country of origin labourers whose contracts may not be renewed.

Title and date of taking effect.

\* Assented to and put into force from 7th January, 1908; see Proc. (Admn.) No. 4 of 1908.

Act No. 20 of 1907.]

[Promulgated 26th August, 1907.]

## AN ACT

TO APPLY A FURTHER SUM NOT EXCEEDING THREE THOUSAND TWO HUNDRED AND EIGHTY-FOUR POUNDS SIXTEEN SHILLINGS AND SIXPENCE STERLING FOR THE SERVICE OF THE YEAR ENDED THE THIRTIETH DAY OF JUNE 1906.

(Assented to 16th August, 1907.)

WHEREAS it is necessary to provide for certain expenditure necessarily incurred during the year ended the thirtieth day of June 1906 in addition to the sums provided by the Appropriation Ordinance (No. 3) 1905 and Appropriation Ordinance (No. 2) 1906 :

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

Public  
revenue to be  
charged with  
£3,284  
16s. 6d.

1. The Public Revenue of this Colony is hereby charged towards the Service of the year ended the thirtieth day of June 1906 with a further sum of Three Thousand two hundred and eighty four pounds sixteen shillings and sixpence in addition to the several sums provided for by the Appropriation Ordinance (No. 3) 1905 and Appropriation Ordinance (No. 2) 1906.

Not to be  
applied other-  
wise than  
as granted.

2. The money granted by this Act shall not be applied to any use intent or purpose other than the services specified in the Schedule hereto.

The Treasurer  
to make  
payments  
under warrant  
of the  
Governor.

3. The issue and payment by the Colonial Treasurer from time to time under warrant of the Governor of the Transvaal of such sums of money as were required for the purposes hereinbefore mentioned (not exceeding in the whole the sums respectively in that behalf specified) shall be deemed to have been proper issues and the Colonial Treasurer shall in his accounts be allowed credit for all sums paid by him in pursuance of any such warrant ; and the receipts of the persons to whom such sums shall have been so paid shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

Title.

4. This Act may be cited as the " Appropriation Act (No. 1) 1907."

## SCHEDULE.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
XIV	Colonial Secretary (Division II)	Assistant Colonial Secretary	£ 1,010 s. 1 d. 0
XVII	Printing and Stationery	Government Printer ..	10 0 0
XXIV	Native Affairs ..	Secretary for Native Affairs	353 16 4
XXXII	Miscellaneous ..	Accountant-General ..	1,477 9 5
XXXIII	Selati Railway ..	Accountant-General ..	433 9 9
Total required to be Voted .. ..			£3,284 16 6

Act No. 21 of 1907.]

[Promulgated 26th August, 1907.

## AN ACT

TO APPLY A FURTHER SUM NOT EXCEEDING TWO HUNDRED AND SEVENTY-SEVEN THOUSAND ONE HUNDRED AND FORTY-FIVE POUNDS STERLING FOR THE SERVICE OF THE YEAR ENDED THE THIRTIETH DAY OF JUNE 1907.

(Assented to 16th August, 1907.)

WHEREAS it is necessary to provide for certain expenditure necessarily incurred during the year ended the thirtieth day of June 1907 in addition to the sums provided by the Appropriation Ordinance (No. 3) 1906 Appropriation Ordinance (Extraordinary) 1906 and Appropriation Ordinance (No. 4) 1906 :

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. The Public Revenue of this Colony is hereby charged towards the Service of the Year ended on the thirtieth day of June 1907 with a further sum of Two hundred and seventy-seven thousand one hundred and forty-five pounds sterling in addition to the several sums provided for by the Appropriation Ordinance (No. 3) 1906 the Appropriation Ordinance (Extraordinary) 1906 and Appropriation Ordinance (No. 4) 1906.

Public  
revenue  
charged with  
£277,145.

2. The money granted by this Act shall not be applied to any use intent or purpose other than the particular services specified in the schedule to this Act.

Not to be  
applied other-  
wise than as  
granted.

3. No appropriation granted by this Act for the services described in the schedule hereto as Extraordinary Expenditure shall lapse until the service in respect of which such appropriation was made has been completed.

Appropriation  
for Extra-  
ordinary  
Expenditure  
not to lapse  
until services  
completed.

4. The issue and payment by the Colonial Treasurer from time to time by warrant under the hand of the Governor of such sums of money as were or may be required for the purposes hereinbefore mentioned (not exceeding in the whole the sums respectively in that behalf specified) shall be deemed to have been or to be proper issues and the Colonial Treasurer shall in his accounts be allowed credit for all sums paid by him in pursuance of any such warrant; and the receipts of the persons to whom such sums shall have been so paid shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

The Treasurer  
to make  
payments  
under warrant  
of the  
Governor.

5. This Act may be cited for all purposes as the "Appropriation Act (No. 2) 1907."

Title.

**SCHEDULE.**  
**ORDINARY EXPENDITURE.**

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
			£
Ia	Prime Minister ..	Secretary to Prime Minister	2,225
IIa	Ministers' Salaries ..	Secretary to the Treasury	9,418
IIb	Legislative Council ..	Clerk of the Council ..	1,434
IIc	Legislative Assembly	Secretary to Prime Minister	2,600
II d	Joint Parliamentary Expenses	Secretary to Prime Minister	125
V	Sheriff of the Transvaal	Secretary to the Law Department	1,475
X	Magistrates .. ..	Secretary to the Law Department	6,707
XIII	Colonial Secretary— Division I	Assistant Colonial Secretary	21,880
XV	Volunteers .. ..	Commandant of Volunteers	17,117
XVII	Government Printing and Stationery Department	Government Printer ..	6,924
XXI	Grants-in-aid to Local Authorities	Assistant Colonial Secretary	2,000
XXIIIa	Agent-General in London	Secretary to the Treasury ..	1,000
XXVIII	Pensions and Gratuities	Secretary to the Treasury ..	24,695
XXIX	Miscellaneous .. ..	Secretary to the Treasury ..	9,150
XXXII	Lands .. .. .	Secretary for Lands ..	2,102
XXXIII	Surveys .. .. .	Surveyor-General .. ..	5,310
XXXVI	Agriculture and Forests	Director of Agriculture ..	17,860
	Total Ordinary Expenditure .. ..		£132,022

**EXTRAORDINARY EXPENDITURE.**

Letter of Vote.	Nature of Expenditure.	Accounting Officer.	Amount.
			£
B.	Extirpation of Cattle Disease	Director of Agriculture ..	15,000
E.	Allowance to Z.A.R. Officials	Secretary to the Treasury ..	33,650
F.	Government Printing and Stationery Department	Government Printer ..	17,500
G.	Expropriation of Wonderfontein Water Concession	Secretary to the Treasury ..	11,973
H.	Construction of Irrigation Works	Director of Irrigation ..	8,500
J.	Purchase of hypothecated properties bought in by the Investment Board	Secretary for Lands ..	40,000
K.	Relief Works—Unemployed	Secretary for Public Works	18,500
	Total Extraordinary Expenditure .. ..		£145,123

**SUMMARY.**

Ordinary Expenditure .. .. .	£132,022
Extraordinary Expenditure .. .. .	145,123

Act No. 22 of 1907.]

[Promulgated 26th August, 1907.

## AN ACT

TO APPLY A SUM OF MONEY FOR THE SERVICE OF THE YEAR  
ENDING THE THIRTIETH OF JUNE, 1908.

(Assented to 16th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The Public Revenue of this Colony is hereby charged towards the service of the year ending the thirtieth day of June 1908 with a sum of Three million four hundred and six thousand seven hundred and sixty pounds in addition to the sum of Five hundred thousand pounds sterling provided for by the Appropriation (Part 1907—1908) Act 1907. Public revenue to be charged with £3,406,760.
2. The money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto and more particularly specified and set forth in the Estimates of Expenditure for the year ending the thirtieth day of June 1908 submitted to and approved by Parliament. How to be applied.
3. The money granted by this Act shall not be issued or applied to any use intent or purpose other than the particular services to which the said amounts have been granted respectively by this Act. Not to be applied except as granted.
4. The Appropriation granted by this Act for any service described in the Schedule hereto as Extraordinary Expenditure shall not lapse until such service has been completed. Appropriation for Extraordinary Expenditure not to lapse until services completed.
5. The Colonial Treasurer being duly authorized thereto by warrant under the hand of the Governor shall issue and pay from time to time such sums of money as shall be required for the purposes hereinbefore mentioned not exceeding in the whole the sums respectively in that behalf specified and shall in his accounts be allowed credit for all sums paid by him in pursuance of such warrant; and the receipts of the persons to whom such sums shall have been so paid shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given. The Treasurer to make payments under warrant of the Governor.
6. This Act may be cited for all purposes as the "Appropriation Act (No. 3) 1907." Title.

## SCHEDULE.

## ORDINARY EXPENDITURE.

No. of Vote.	Title of Vote.	Accounting Officer.	Estab-lish-ments.	Services exclusive of Estab-lish-ments.	Total of Vote.
			£	£	£
1	His Excellency the Governor	Secretary to the Prime Minister	6,593	2,100	8,693
2	Ministers' Salaries ..	" "	19,000	—	19,000
3	Legislative Council ..	Clerk of the Legis-lative Council	4,020	4,835	8,855
4	Legislative Assembly	Clerk of the Legis-lative Assembly	7,890	19,900	27,790
5	Joint Parliamentary Expenses	" "	300	2,950	3,250
6	Prime Minister ..	Secretary to the Prime Minister	3,152	750	3,902
7	Agriculture and Forests	Director of Agriculture	58,309	103,347	161,656
8	Colonial Secretary ..	Assistant Colonial Secretary	27,870	36,152	64,022
9	Public Health, Hospi-tals and Asylums	" "	60,700	56,762	117,462
10	Grants-in-Aid to Local Authorities	" "	—	155,500	155,500
11	Printing and Station-ery	Government Printer	48,381	51,000	99,381
12	Volunteers .. ..	Commandant of Vol-unteers	30,929	87,636	118,565
13	Education .. ..	Director of Education	363,315	138,500	501,815
14	Attorney-General ..	Secretary to the Law Department	39,125	15,185	54,310
15	Superior Courts ..	" "	15,408	14,580	29,988
16	Magistrates .. ..	" "	95,824	53,340	149,164
17	Town Police.. ..	Commissioner of Police	255,649	85,938	341,587
18	Prisons .. ..	Director of Prisons ..	106,993	108,558	215,551
19	Foreign Labour ..	Superintendent of Foreign Labour	27,659	6,702	34,361
20	Mines .. ..	Secretary for Mines ..	101,033	16,450	117,483
21	Treasury .. ..	Secretary to the Treasury	17,119	905	18,024
22	Internal Revenue ..	" "	25,642	2,995	28,637
23	Auditor-General ..	Auditor-General ..	11,980	1,350	13,330
24	Customs .. ..	Director of Customs	37,815	42,980	80,795
25	Posts and Telegraphs	Postmaster-General..	346,251	113,715	459,966
26	Agent-General in Lon-don	Secretary to the Treasury	6,225	2,450	8,675
27	Pensions .. ..	" "	—	36,779	36,779
28	Miscellaneous .. ..	" "	—	10,000	10,000
29	Selati Railway .. ..	" "	—	36,350	36,350
31	Lands .. ..	Secretary for Lands..	12,061	26,760	38,821

## ORDINARY EXPENDITURE—(continued).

No. of Vote.	Title of Vote.	Accounting Officer.	Estab-lish-ments.	Services exclusive of Estab-lish-ments.	Total of Vote.
			£	£	£
32	Surveys .. ..	Surveyor-General ..	17,254	21,125	38,379
33	Irrigation and Water Supply	Chief Engineer, Irriga-tion	19,127	41,850	60,977
34	Native Affairs ..	Secretary for Native Affairs	84,863	23,414	108,277
35	Public Works ..	Secretary for Public Works	81,756	309,670	391,426
36	Works and Bridges ..	„ „	—	276,989	276,989
			£ 1,932,243	1,907,517	3,839,760

Less Amount provided for by the Appropriation (Part 1907-08) Act,  
1907 .. .. . 500,000

TOTAL ORDINARY EXPENDITURE .. £3,339,760

## EXTRAORDINARY EXPENDITURE.

Letter of Vote.	Nature of Expenditure.	Accounting Officer.	Amount.
A.	Telephone Construction.. ..	Postmaster-General ..	£ 22,000
B.	Extirpation of Cattle Disease ..	Director of Agriculture	20,000
C.	Relief Works—Unemployed ..	Secretary for Public Works	15,000
D.	Preservation of Order on the Witwatersrand	Commissioner of Police	10,000
	TOTAL EXTRAORDINARY EXPENDITURE ..		£67,000

## SUMMARY.

Ordinary Expenditure .. .. . £3,339,760  
Extraordinary Expenditure .. .. . 67,000

GROSS TOTAL .. .. . £3,406,760



Act No. 23 of 1907.]

[Promulgated 26th August, 1907.]

## AN ACT

TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE REGISTRATION AND CONTROL OF DOGS OUTSIDE THE AREAS OF MUNICIPALITIES.

(Assented to 16th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Repeal of laws.

1. The Laws and Volksraad Resolutions mentioned in the Schedule hereto shall be and are hereby repealed together with the provisions of any other Law or Volksraad Resolution repugnant to or inconsistent with the provisions of this Act.

Registration of dogs and issue of badges for same.

2. (1) Every owner or other person having the custody or control of a dog shall as soon as the same is of the age of six months register such dog and take out in respect thereof a registration certificate and badge as hereinafter provided.

Such certificate shall be issued in the form and manner prescribed by regulation under this Act and shall be renewed annually and with such certificate there shall be issued to the holder thereof a metal badge stamped with the number of such certificate and of the year for which it was issued; and if such metal badge be lost or destroyed the certificate holder may obtain from the person appointed to issue the same a duplicate of such badge on payment of a fee of two shillings and sixpence.

(2) In respect of dogs which are on the first day of January in any year of the age of six months and over application shall be made for such certificate or a renewal thereof within one month after such date and in respect of dogs reaching such age between such date and the thirty-first day of December next ensuing application for a certificate shall be made within one month after it reaches such age.

(3) For every such certificate or renewal thereof shall be paid

(a) a sum of five pounds in respect of every dog which in the judgment of the person appointed to issue registration certificates shall be of the kind known as a kaffir hunting dog or a dog of the greyhound strain or a dog of a similar kind;

(b) a sum of ten shillings in respect of any other kind of dog;

provided always that every white person being the resident owner or lessee of a farm or other piece of land or being in

~~actual occupation of any dwelling~~ may obtain a certificate or renewal thereof without such payment in respect of one animal used as a watch-dog not being a dog of the kind mentioned in paragraph (a) of this sub-section.

3. Every person who has in his possession or custody or under his control a dog in respect of which a registration certificate is under this Act necessary shall if requested by a justice of the peace police officer or constable or any person\* appointed to issue such certificate and within a reasonable time after such request produce or cause to be produced for inspection any such certificate and the dog in respect of which it was issued.

Production of certificate on demand.

4. Every holder of such certificate shall cause the metal badge issued to him as aforesaid to be worn at all times by the dog in respect of which such certificate was issued.

Certificate holder to cause metal badge to be worn by dog.

5. Any dog may be forthwith destroyed

(a) by or on the order of the owner lessee or occupier of a farm or portion of a farm if found trespassing thereon without a badge issued in respect of it under this Act or under any municipal bye law;

Destruction of dogs trespassing or without badges.

(b) by or on the order of the owner lessee or occupier of a farm or portion of a farm if found causing damage thereon;

(c) by any police officer or constable if found in any place without a badge issued in respect of it under this Act or under any municipal bye-law.

6. The Governor in Council may from time to time make alter and repeal regulations

Power to make regulations.

† (a) prescribing the various forms of registration certificates and metal badges to be issued under this Act;

‡ (b) prescribing the persons by whom such certificates and badges shall be issued the form of application for any particular class of certificate and the maximum number of certificates and badges which may be issued to persons residing in any particular area defined by Proclamation of the Governor in the *Gazette*;

and he may by such regulations impose penalties for any contravention thereof not exceeding a fine of five pounds or in default of payment imprisonment with or without hard labour for a period of one month.

7. (1) Any person required by this Act to have a dog registered who does not obtain the proper certificate in respect thereof within the period prescribed by section two or who fails to produce the same or the dog in respect of which it was issued when required in accordance with section three shall be guilty of an offence and shall be liable on conviction to a fine

Penalties.

\* A field cornet is such person; see sec. 6 (1) of Act No. 34 of 1907.

† For regulations see Govt. Notices Nos. 1378 of 1907 (*Gazette*, 20/12/07), 86 of 1908 (*Gazette*, 24/1/08), 148 of 1908 (*Gazette*, 14/2/08), 245 of 1908 (*Gazette*, 6/3/08), 385 of 1908 (*Gazette*, 24/4/08).

‡ No certificates and badges to be issued in Sabi Game Reserve. See Proc. (Admn.) No. 100 of 1907.

not exceeding five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

(2) Any person found in possession of a dog in respect of which a registration certificate under this Act is necessary which is not wearing a metal badge issued in respect of it shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one pound or in default of payment to imprisonment with or without hard labour for a period not exceeding fourteen days.

(3) Any person who shall

(a) fabricate any document or piece of metal with intent that such document shall be used as a registration certificate or such piece of metal shall be used as a badge issued under this Act;

(b) use or utter any fabricated document or piece of metal well knowing the same to have been fabricated with the intent aforesaid;

(c) steal or be found in possession (without being able to satisfactorily account for such possession) of a badge issued under this Act to another person;

shall be guilty of an offence and shall be liable on conviction to imprisonment with hard labour for a period not exceeding two years.

Jurisdiction  
of resident  
justice of the  
peace.

8. (1) Every resident justice of the peace may try any contravention of this Act or of any regulation made thereunder committed within the area of his jurisdiction save and except the offences mentioned in sub-section (3) of the last preceding section.

(2) Any court before which a conviction is obtained for a contravention of this Act may order that a sum not exceeding one-third of any fine recovered from the person convicted shall be paid to any person by whose information such conviction shall have been obtained; save as aforesaid all such fines shall be paid into the public revenue of this Colony.

Certain  
provisions of  
Act not to  
apply within  
municipalities  
where bye-  
laws exist for  
licensing  
of dogs.

9. Nothing in this Act contained relative to registration or the production of registration certificates or to the issue or wearing of badges shall apply to dogs kept within a municipality in which any bye-laws are in force made by the council thereof as to the licensing of dogs.

Title and date  
of taking  
effect.

10. This Act may be cited for all purposes as the Registration and Control of Dogs Act 1907 and shall take effect from and after the first day of January 1908.

#### SCHEDULE.

Volksraad Resolution Article 567 of 16th June 1887.

Law No. 3 of 1891.

First Volksraad Resolution Article 114 of 17th May 1893.

First Volksraad Resolution Article 688 of 29th June 1898.

Act No. 24 of 1907.] [Promulgated 26th August, 1907.

AN ACT

TO FIX THE SALARY OF THE PRESIDENT OF THE LEGISLATIVE COUNCIL AND OF THE SPEAKER OF THE LEGISLATIVE ASSEMBLY.

(Assented to 16th August, 1907.)

WHEREAS it is provided by section *thirty-two* of the Transvaal Constitution Letters Patent 1906 that the salary of the President of the Legislative Council and of the Speaker of the Legislative Assembly shall be such as may be prescribed by any law of the Colony;

And whereas it is expedient that the salary of each such officer should be now prescribed;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The salary of the President of the Legislative Council shall be one thousand two hundred pounds per annum and the salary of the Speaker of the Legislative Assembly shall be two thousand five hundred pounds per annum.

Salary of  
President of  
Legislative  
Council and  
Speaker of  
Legislative  
Assembly.

2. This Act may be cited for all purposes as the Officers of Parliament Remuneration Act 1907 and shall take effect as from the twenty-first day of March 1907.

Title and date  
of taking  
effect.

† \* (e) provide for transporting children either to or from any public school;

(f) make such other provision for the carrying on of public education as may be consistent with and not repugnant to the provisions of this Act.

6. The Minister may from time to time provide bursaries

Bursaries.

(1) to assist in transporting children to the nearest public school which provides primary education or in boarding them at or near any such school wherever situate;

(2) to assist in providing children with secondary or industrial education at such schools as the Director may determine or in maintaining such children while attending any such school;

(3) to assist in the maintenance or transport ‡ of students who are undergoing a course of instruction or training entered upon in order to qualify themselves or improve their qualifications as teachers in any school class or institution established maintained or aided under this Act;

(4) to assist in the maintenance and education of students who are pursuing their studies at any institution which affords facilities for advanced education beyond the standard attained in any primary school or secondary school; and may withdraw any such bursaries; provided always that the grant or withdrawal of any such bursary shall be in accordance with and subject to the conditions prescribed by regulation.

## CHAPTER II.

### COUNCIL OF EDUCATION.

7. There shall be a Council of Education constituted as follows:—

Establishment of Council of Education.

(1) The Director who shall be Chairman of the Council (or in his absence the Secretary of the department or such other public officer as the Minister may appoint who shall while acting as a member of the Council act as chairman thereof).

(2) Four other members to be appointed by the Governor for a period of four years subject to the provisions of sections *ten eleven* and *twelve*.

8. The function of the Council shall be to advise the Minister as to:—

Function of the Council of Education.

(a) Estimates of Expenditure to be submitted to the Legislature every year for the purposes of carrying out this Act (including estimates of particular items of such expenditure);

(b) (i) any expenditure not governed by regulation exceeding one hundred pounds on any one service or object out of moneys which have been voted by the Legislature for the carrying out of this Act;

† For regulations see Govt. Notice No. 268 of 1909 (*Gazette*, 5/3/09).

\* Paragraph (e) inserted by Act No. 3 of 1909, sec. 1, and original paragraph (e) to become paragraph (f).

‡ Words in italics inserted by Act No. 3 of 1909, sec. 2.

- (ii) the amount of moneys which may be allocated to any board for the purposes mentioned in section *sixty-two*;  
 ‡ (iii) the amounts of any capitation grants made under section *seventeen*;  
 (c) any cases arising for decision under sections *twenty-seven* and *thirty-three*;  
 (d) any such cases as under sections *seventy-eight* and *eighty-one* are reported to the Minister by the Director relative to the appointment and dismissal of teachers;  
 (e) regulations to be made under section *ninety*;  
 (f) any other matters on which the Minister may require the advice of the Council or on which the Governor may require the Council to advise the Minister.

Jurisdiction of Council limited.

9. The Council shall have no authority or jurisdiction over the Director or any other officer of the department *but any member of the Council shall have the right to enter any school, class, or institution established, maintained, or aided under this Act or any amendment thereof; provided he does not interrupt or interfere with the studies or work which is being carried on in that school, class, or institution.\**

Retirement of members of the Council.

10. On the first day of October 1908 and on the first day of October in every year thereafter one member of the Council appointed by the Governor (hereinafter called a nominated member) shall retire and his place shall be filled by another person appointed in like manner. The order of retirement shall unless such members agree amongst themselves be determined by lot immediately after their first appointment. A retiring member shall be eligible for reappointment.

Circumstances under which members of Council vacate office.

11. A nominated member of the Council shall vacate his office  
 (a) if he become insolvent or assign his estate for the benefit of or make an arrangement with his creditors;  
 (b) if he become of unsound mind or be convicted of an offence and sentenced to imprisonment therefor without the option of a fine;  
 (c) if he be absent from three consecutive ordinary meetings of the Council without the leave of the Council;  
 (d) if he give one month's notice in writing to the Director of his intention to resign office.

Casual vacancies.

12. Any vacancy among the nominated members of the Council caused by death or any of the circumstances described in the last preceding section shall be filled in the manner provided by section *seven*; and a member so appointed to fill a vacancy shall hold office for the remainder of the period for which the member so vacating office would but for such vacation of office have held the same.

Remuneration of nominated members of the Council. Meetings of the Council.

13. The four members of Council appointed by the Governor shall receive such remuneration as the Governor shall approve.

14. (1) The Director (or in his absence the person acting as chairman) shall convene an ordinary meeting of the Council

† For regulations capitation grants, see Govt. Notices No. 92 of 1909 (*Gazette*, 22/1/09) and No. 191 of 1909 (*Gazette*, 19/2/09) (*erratum*).

\* Words in italics added by Act No. 3 of 1909, sec 3.

at least once in every month and upon the requisition of any two nominated members a special meeting of the Council; *reasonable notice of every meeting of the Council shall be given.\**

(2) Three members of the Council shall constitute a quorum at any meeting.

(3) At every meeting the chairman shall have a deliberative as well as a casting vote.

15. Minutes of the proceedings of every meeting of the Council shall be regularly kept in a book set apart for the purpose and such minutes shall be submitted for confirmation at the next subsequent meeting and if confirmed shall be signed as correct by the chairman.

Minutes of meetings.

### CHAPTER III.

#### PRIMARY EDUCATION FOR WHITE CHILDREN.

16. (1) The Minister may from time to time establish or maintain a primary school whenever there is reasonable ground for believing that the number of children on the roll of such school will average not less than twenty-five throughout the year the basis of calculation being the number on the roll at the end of each week during which the school is open.

Establishment or maintenance of primary schools.

(2) If the roll at a primary school falls below an average of twenty-five children for any year such average being calculated as aforesaid the Director may after first obtaining the opinion of the board of the district in which such school is situate order that such school be no longer recognized as a primary school; and thereupon such school shall cease to be a primary school for the purposes of this Act or any regulation.

† 17. ~~Whenever there are at least ten children assembled~~ for purposes of primary instruction at a place at which no primary school is or will be established the Director may make such annual capitation grant as may be from time to time determined by the Minister in respect of each such child of the age of five years and upwards actually attending such place for the purpose aforesaid; provided that

Aided farm schools.

(1) such amount shall not exceed the average cost of instruction of children at all primary schools during the year immediately prior to the year in which such grant is made;

(2) there is no primary school within a distance of six miles of such place by the nearest road;

(3) such grant is recommended by the board for the district;

(4) instruction is given at such place in a room suitably situated constructed and equipped;

(5) there is a teacher thereat who has been recommended by the board of the district and is approved by the department;

\* Words in italics substituted by Act No. 3 of 1909, sec. 4.

† For regulations capitation grants, see Govt. Notices No. 92 of 1909 (*Gazette*, 22/1/09) and 191 of 1909 (*Gazette*, 19/2/09) (*erratum*).

(6) a satisfactory report on the instruction given at such place and the conditions under which the same is given has been made by an inspector of education;

(7) as soon as the number of children on the roll of such school reaches twenty-five the Director may order that such school shall be recognized as a primary school and thereupon such school shall be deemed to be a primary school for the purposes of this Act or any regulation.

18. (1) Save as in sub-section (2) of this section provided all instruction given in a primary school shall be free of charge but for instruction given at any aided farm school such fees as the board may from time to time determine may be charged.

(2) On the application of a committee of any primary school in existence at the date of the taking effect of this Act the board may recommend that fees be charged in such school and further recommend the scale of such fees and if the Minister approve such recommendation he may direct fees to be charged on such scale; provided

(a) that no child shall be excluded on account of the inability of the parent to pay such fees of which inability the committee shall be the sole judge;

(b) that all such fees as are collected shall be expended on such educational purposes in connection with such school as the Minister may approve;

(c) that the Minister may from time to time revoke his direction that fees be charged or alter the scale of fees or change the purposes to which such fees shall be applied;

(d) that no such fees shall be charged after the expiration of five years from the date of the taking effect of this Act;

(e) that a record of receipts and expenditure be kept and be open at any time to inspection by an officer of the department and that a statement be submitted as soon as possible after the end of each year showing the financial position of such school.

19. (1) It shall be the duty of the parent of every white child who has completed his seventh year but has not completed his <sup>fourteenth</sup> ~~fourteenth~~ year to cause such child to attend regularly at a school unless such child

(a) is in the opinion of the board receiving efficient instruction in some other manner;

(b) lives more than three miles by the nearest road from a school in which there is the necessary accommodation and is not provided by the department with facilities for transport to such school;

(c) is prevented from ill-health or any other cause whether temporary or permanent which the board may deem a sufficient excuse for non-attendance;

(d) is in regular employment and has satisfactorily completed a course prescribed by regulation for the fourth

Free primary  
education  
save under  
certain  
conditions.

Compulsory  
education.



standard of primary schools or an equivalent course whereof a certificate under the hand of an inspector of education shall be conclusive evidence.

(2) The Governor may from time to time by proclamation in the *Gazette* vary the provisions of this section in respect of all schools or of schools in particular areas by

- (a) changing the limits of age between which attendance at school shall be compulsory; provided that the upper limit shall not be below the age of fourteen years and the lower limit not below the age of seven years; or
- (b) raising the standard of exemption above the fourth standard.

20. (1) Any parent who shall neglect to comply with the provisions of the last preceding section or shall neglect or refuse to supply to an attendance officer information lawfully required by him shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two pounds or in default of payment to imprisonment without hard labour for a period not exceeding seven days.

Duty of board to enforce compulsory attendance.

(2) Any person who shall during the usual hours of attendance at school utilize in connection with any employment whether for remuneration or not the services of a child who is required by the last preceding section to attend school unless such child be exempted from school attendance in manner aforesaid shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five pounds or in default of payment to imprisonment without hard labour for a period not exceeding fourteen days.

(3) In case of a second or subsequent conviction of a contravention of this section the court shall impose therefor a fine not less than five pounds and not exceeding twenty pounds or in default of payment of the same imprisonment with or without hard labour for a period not exceeding one month or such court may in its discretion impose such period of imprisonment without the option of a fine.

21. The board shall enforce in its district the provisions in this Act contained with regard to compulsory attendance at school and for that purpose may and if the Director so requires shall appoint so many persons as the Director may determine to be "attendance officers" for its district at such salaries as may be approved by the Minister. The duties of an attendance officer shall subject to the directions instructions and control of the board be to warn any persons of the consequences of any such offence as aforesaid to prosecute any such persons therefor and to obtain information relative to the attendance at school of children resident within the district of the board or relative to any alleged grounds of exemption from such attendance.

Procedure and evidence in prosecution for such offences.

22. (1) No prosecution shall be instituted for a contravention of section twenty unless specially authorized by the board and no such authority shall be given until the attendance officer shall have issued one month's notice in writing

Penalties.

to the person alleged to have been guilty of such contravention warning him of the consequences of the same and unless such person has continued the act or omission constituting the contravention.

(2) The attendance officer or any person authorized thereto in writing by the chairman of the board for the district may prosecute summarily in the court of resident magistrate having jurisdiction for any such contravention and the provisions of any law relating to prosecutions by private persons shall apply in respect thereof and it shall not be necessary to obtain a certificate signed by the Attorney-General that he declines to prosecute.

(3) The burden of proving any fact which would be a defence to a charge of any such contravention shall lie upon the person charged therewith.

(4) 013/34 also

#### CHAPTER IV.

##### SECONDARY AND HIGHER EDUCATION FOR WHITE CHILDREN OR PERSONS.

Establishment and maintenance of secondary schools.

23. (1) The Minister may from time to time establish or maintain secondary schools or preparatory departments thereof or secondary departments attached to primary schools.

\* (2) The schools set forth in the First Schedule to this Act shall be deemed to be secondary schools or to contain secondary departments for the purposes of this section; provided always that the Governor may from time to time by proclamation in the *Gazette* delete from such Schedule the name of any such school or may add thereto the name of any other public school.

Trade or industrial schools.

24. The Minister may from time to time establish or maintain or make grants in aid of schools classes and institutions for the instruction and training of persons in the occupation of any trade or industry in which term shall be included agriculture.

Continuation classes.

25. (1) The Minister may from time to time establish or maintain classes providing instruction supplementary to or in continuation of the instruction given in any public school.

(2) The instruction given in such classes shall be in such subjects as may be prescribed from time to time by regulation or as the Director may determine.

Teachers' training institutions or classes.

26. (1) The Minister may from time to time establish or maintain classes and institutions for the instruction and training of persons desirous of becoming teachers in public schools or any school class or institution described in Chapter V hereof or for improving the qualifications of teachers engaged in such schools classes or institutions.

(2) The instruction or training given in such classes or institutions shall be as prescribed by regulation or as the Director may determine.

\* The following Proclamations were issued under this section, viz., Procs. (Admn.) No. 93 of 1908; 11, 26, and 79 of 1909; 20, 35, and 42 of 1910.

27. Such fees as may be prescribed by regulation shall be payable in any schools classes or institutions mentioned in this Chapter; provided that the Minister may at any time and for such period as he shall think fit by order determine that no fees be payable in any one or more of such schools classes or institutions or by any particular pupil in attendance thereat.

Fees payable in secondary trade or training schools and institutions.

## CHAPTER V.

### SCHOOLS CLASSES AND INSTITUTIONS FOR COLOURED CHILDREN OR PERSONS.

28. The Minister may from time to time  
 (a) establish or maintain such schools classes and institutions as may be deemed necessary or expedient for the instruction of coloured children or persons;  
 (b) make grants in aid of any school class or institution which is provided for the instruction of coloured children or persons and is under the superintendence of a European missionary or of a person approved by the Director;  
 (c) establish or maintain such classes and institutions as may be deemed necessary or expedient for the training of coloured persons desirous of becoming teachers in any of the schools classes or institutions mentioned in this section or for improving the qualifications of teachers engaged in such schools classes or institutions;  
 (d) make grants in aid of any classes or institutions provided for the purposes mentioned in sub-section (c) of this section which are under the superintendence of an European missionary or other person approved by the Director.

Powers of Minister in relation to schools classes and institutions for coloured children or persons.

29. No coloured child or person shall be admitted to or allowed to remain a pupil or member of any school class or institution mentioned in Chapters III or IV of this Act and the duty of carrying out the provisions of this section shall lie with the board or with the governing or managing body established under section *seventy-three*.

Exclusion of coloured children from schools for white children.

## CHAPTER VI.

### QUESTIONS OF LANGUAGE.

30. The medium of instruction in the lower standards of any public school shall be the native language of the pupil which shall continue to be used as such medium for such time as is required to ensure proper educational progress and development. Where English is not the native language its use as a medium of instruction shall be gradually introduced and beyond the completion of the course prescribed for the third standard it shall be so used save as is otherwise provided in section *thirty-two*.

Medium of instruction.

31. No pupil in a public school shall be promoted from any standard to any higher standard unless he shall *inter alia* have acquired such knowledge of the English language as may be reasonably expected of him and is making satisfactory progress in knowledge of that language.

Knowledge of and progress in the English language a condition of promotion in public schools.

Teaching of the Dutch and use as medium of other languages not being English or Dutch.

32. (1) Adequate provision for the teaching of the Dutch language shall be made in every public school and that language shall be taught to every child in such school unless the parent of such child otherwise desires; provided that in the case of any child whose native language is not Dutch the teaching of the Dutch language shall be begun at such time as is considered by the Director to be on educational grounds convenient.

(2) In order to ensure the effective teaching of the Dutch language the Director shall on the recommendation of the board approve the use of such language in any public school in any standard above the third standard as a medium of instruction in subjects not exceeding two in number; and the time given to the study of such subjects in the Dutch language shall be in addition to the time given to the study of such language.

(3) Where in any public school the native language of the pupil is neither English nor Dutch such native language may on the same conditions and to the same extent as is in this section provided in respect of the Dutch language be used as a medium of instruction in any standard above the third standard.

Appeal from decision of board on medium of instruction.

33. If any question shall arise as to the medium of instruction in any public school such question shall be submitted for the consideration and decision of the board or the governing body established under section *seventy-three* as the case may be and an appeal shall lie from such decision to the Minister.

## CHAPTER VII.

### RELIGIOUS INSTRUCTION.

Provisions relating to religious instruction and exemptions therefrom.

34. In every public school

(1) the school day shall begin with prayer and the reading of a portion of the Bible;

(2) save as is hereinafter provided instruction in Bible history shall be given in the English Dutch or any other European language and whenever possible such instruction shall be given within the first half-hour of each school day; provided that nothing in this or the last preceding sub-section contained shall apply to schools established or maintained primarily for or attended mainly by children of non-Christian parents unless there be in attendance at any such school children of Christian parents in which case provision shall be made at the request in writing of the parents of such last-mentioned children for their instruction in Bible history;

(3) no child whose parent has notified in writing to the principal of the school his desire that such child shall not receive instruction in Bible history shall be compelled to receive such instruction;

(4) no doctrine or dogma peculiar to any religious denomination or sect shall be taught in any public school;

(5) no instruction in Bible history shall be given during school hours by any person other than a teacher on the staff of such school;

(6) no principal teacher or any assistant teacher who is responsible for the general welfare of a class or division or department shall be admitted to or retained on the staff unless he is prepared conscientiously to give the instruction in Bible history required by this section or to put before the Director any objection he may have to undertake such instruction;

(7) the time to be devoted to instruction in Bible history in the various standards shall be as prescribed by regulation.

## CHAPTER VIII.

### PRIVATE SCHOOLS.

35. (1) It shall be the duty of the proprietor or principal teacher of every school which is not a public school and on the registers of which ten or more pupils are enrolled

Registration of private schools and furnishing of returns of teachers and attendance of pupils.

(a) to register such school at the office of the department:

(b) to keep a register of enrolment and a register of daily attendances of pupils;

(c) to keep a register of teachers employed thereat showing the qualifications of such teachers.

Any such register shall be in such form and kept in such manner as may be prescribed by regulation.

(2) It shall be the duty of every such proprietor or principal teacher to furnish to the department at such times (not being oftener than once in every three months) and for such periods as the Director may require correct returns in the form prescribed by regulation of the entries in any registers kept as aforesaid.

(3) Any such proprietor or principal teacher as aforesaid who shall fail to comply with any of the requirements of this section or any regulation therein referred to shall be guilty of an offence and shall be liable on first conviction to a fine not exceeding ten pounds or in default of payment to imprisonment without hard labour for a period not exceeding one month and on a second or subsequent conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months or such imprisonment without the option of a fine.

36. (1) The Director or any inspector of education specially authorized thereto by him may from time to time visit any such school as is in this Chapter described and if from information obtained on such visit or otherwise it appear to him that such school is conducted in a manner which is calculated to be detrimental to the physical mental or moral welfare of the pupils attending thereat the Director may if

Visiting of private schools by Director and sanitary or other inspection thereof—Power of Minister to close schools under certain conditions.

he deem it necessary cause an inspection of such school to be made by a medical practitioner nominated by the Medical Officer of Health for the Colony.

(2) If upon the report of such inspection it appear to the Minister desirable so to do he may order the premises on which such school is situate to be closed forthwith for school purposes or require such alterations in the structure of the premises or the conduct of the school or otherwise as may appear expedient to be made within a time fixed by such notice and if the same be not made to the satisfaction of the Director within the time so fixed the Minister may order the premises on which such school is situate to be closed forthwith for school purposes.

(3) Any person who

(a) shall obstruct or hinder the Director any inspector of education or other person in lawfully carrying out the powers of this section; or

(b) shall continue to conduct the school without having carried out within the time prescribed as aforesaid the requirements of the Minister as aforesaid; or

(c) shall without permission of the Minister use for school or other educational purposes any premises ordered to be closed under the powers of this section

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months or to such imprisonment without the option of a fine.

Departmental  
examination  
and  
inspection  
of private  
schools on  
request of  
proprietor.

37. Whenever the proprietor or principal teacher of such school as is in this Chapter described shall have made a request in writing for an examination or inspection of such school by an inspector of education the Director may cause such examination or inspection to be made and a report thereon to be transmitted to such proprietor or principal teacher free of charge.

## CHAPTER IX.

### LOCAL MANAGEMENT OF SCHOOLS.

#### (A.)—*School Districts.*

Division of  
Colony into  
school  
districts.

38. \* (1) This Colony shall be and is hereby divided into such school districts as are defined in the Second Schedule to this Act.

‡ (2) The Governor may from time to time by proclamation in the *Gazette* unite two or more school districts forming one continuous area so as to form one school district; or divide a school district which includes more than one of the electoral divisions into which the Colony is divided for the purpose of election of members of the Legislative Assembly into two or more school districts and assign a name to any new district so constituted; or *withdraw from a school district any portion*

\* See Act No. 3 of 1909, sec. 5.

‡ For Proclamations under this section see Procs. (Admn.) Nos. 44 of 1909 and 37 of 1910.

thereof, which is co-terminus with a polling district constituted under section thirty-nine of the Second Schedule to the Transvaal Constitution Letters Patent 1906, and add the portion so withdrawn to any adjoining school district.†

(3) Before any such proclamation shall be issued not less than three months' notice shall be given in the *Gazette* of the changes proposed; provided always that no such proclamation shall take effect except from the commencement of a year; provided further that any board the constitution of which would be affected by such proclamation shall be newly constituted by election and appointment as hereinafter provided.

(B.)—*Constitution of School Boards.*

39. A board shall be constituted for every district in manner provided by this Chapter and every such board shall consist as the Governor may determine of six nine or twelve members.\* One-third of such members shall be appointed by the Minister and the remainder shall be elected as hereinafter provided.

Constitution of boards for every district.

40. (1) Every white person of full age shall be qualified to be appointed or elected a member of the board of the district in which he resides except

Qualifications and disqualifications of members.

(a) an alien;

(b) a person convicted at any time of an offence for which imprisonment with hard labour has been imposed as a punishment unless he shall have obtained a free pardon or his period of imprisonment shall have expired at least three years prior to the date of his appointment or election;

(c) a person of unsound mind declared as such by a competent court;

(d) an unrehabilitated insolvent;

(e) a teacher in any school or institution or any officer of the Department;

and no person shall be disqualified on account of sex from being appointed or elected a member of the board.

(2) Any member who shall cease to possess the qualifications or become disqualified as aforesaid or who shall absent himself from three consecutive ordinary meetings of the board without leave of the board or who shall receive any salary fee or reward whatsoever pecuniary or otherwise (other than such *bona fide* travelling expenses as are certified by the chairman and secretary of the board) in connection with his services as a member shall *ipso facto* vacate his office and the chairman shall at the next meeting of the board held after such disqualification shall have come to his knowledge declare a vacancy to have occurred and such vacancy shall be filled in

† Words in italics substituted by Act No. 28 of 1908, sec. 1.

\* For number of members assigned to each district see Govt. Notices Nos. 1099 of 1907 (*Gazette*, 4/10/07, p. 8), 1412 of 1907 (*Gazette*, 27/12/07), and 13 of 1908 (*Gazette*, 1/1/08, *erratum*), 347 of 1910 (*Gazette*, 8/4/10); for Wakkerstroom and Piet Reef see Govt. Notice No. 346 of 1910 (*Gazette*, 8/4/10); for Zoutpansberg see Govt. Notice No. 421 of 1910 (*Gazette*, 22/4/10).

manner hereinafter provided; provided always that a member whose office shall have been so declared vacant may apply by motion in any superior court having jurisdiction to have such declaration set aside and that notice of intention to make such application and the grounds thereof shall be given to the said chairman within one week after such declaration and such application shall be made within twenty-one days thereafter.

41. Every person resident in a district whose name is included on any register for the time being in force of persons qualified to vote at the election of members of the Legislative Assembly of this Colony for any electoral division included in such district shall be qualified to vote at any election of members of the board for such district; and the appearance of the name of a person on any such register shall be conclusive evidence of his right to vote at any election of members of the board for such district.

42.\* (1) Upon a day and at an hour named in a notice to be published by the Minister in the *Gazette* the person appointed by the Minister (hereinafter referred to as the returning officer) shall hold at a place stated in such notice a public meeting for receiving the nomination of candidates for membership of the board for the district mentioned in such notice. Such notice shall also be published in a newspaper circulating in the district and be posted in such conspicuous places therein as may be convenient. Every such person shall be nominated by a person qualified to vote as aforesaid and seconded by two other persons likewise qualified.

(2) Every nomination shall be in writing in the form prescribed by regulation shall contain the full name and address and occupation of the person nominated and shall be signed by the proposer and each seconder.

(3) Every nomination form duly signed may be handed to the returning officer personally or transmitted to him by post or otherwise but no nomination form received by the returning officer after the day and hour fixed as aforesaid shall be accepted by him as a valid nomination.

43. (1) If the number of persons validly nominated does not exceed the number of persons to be elected at any election the persons so validly nominated shall forthwith be declared by the returning officer to be duly elected.

(2) If the number of persons validly nominated exceed the number of persons to be elected at any election the returning officer shall fix a date upon which a poll shall be taken not being less than one month after the date of nomination and shall forthwith give notice of such date in some newspaper circulating in the district and at such conspicuous places in the district as he may determine.

(3) Such poll shall be taken by means of a voting paper sent through the post to each voter at his address on the register of voters and such voter shall indicate thereon for which candidates he desires to vote and return such paper to

\* See Govt. Notice No. 1100 of 1907 as to first election of school boards under this Act (*Gazette*, 4/10/07, p. 8).

Qualification of voters.

Nomination of candidates for election as members of a school board.

Election of members of boards.



the returning officer by post or otherwise within a period to be fixed by such officer; provided always that the Governor may by proclamation in the *Gazette* prescribe that the poll in any district be taken by ballot; provided further that no voter shall record more than one vote for any candidate or more votes than there are candidates to be elected.

(4) Upon ascertaining the result of the poll the returning officer shall declare the same and shall further declare the candidates elected by the majority of votes to be duly elected.

\* (5) As soon as possible after the returning officer shall have declared which candidates are duly elected he shall transmit to the Minister a statement in the form prescribed by regulation showing the full names occupations and addresses of the members elected; and the Minister shall thereupon cause to be published in the *Gazette* a notice showing the names of the persons duly elected together with the names of the persons appointed by the Minister as aforesaid and the date and place of the first meeting of the board.

44. If from any cause whatever the prescribed number of elective members be not elected the elected members not being less in number than half the number of members to be elected shall choose qualified persons to complete the required number and if the number of members elected be less than half the number of members to be elected the Minister shall appoint as members so many persons duly qualified as aforesaid as may be necessary to make up such prescribed number and any person so chosen or appointed shall be deemed to be a member of the board.

Provision in case of failure to elect an elective member.

45.† (1) The first election under this Act of members of a board shall be held as soon as conveniently may be after the date of the taking effect of this Act and the day next following the date of the publication of the notice mentioned in sub-section (5) of section *forty-three* relative to such first election shall be deemed for the purposes of this Act to be the date on which members of the board entered upon office.

Date of assumption of office by any board and period of office.

(2) Save as is provided in this sub-section or in any provision relating to disqualifications or filling of casual vacancies members of the boards first constituted under this Act shall hold office until the thirtieth day of June 1910 and members of boards constituted thereafter shall hold office for a period of three years X provided that the Minister may prescribe a shorter period of office for members of boards constituted by reason of the exercise of the powers of sub-section (2) of section *thirty-eight* and section *forty-eight* so that the period of office of members of all boards shall terminate on the same day.

\* See Govt. Notices Nos. 1281 of 1907 (*Gazette*, 2/11/07) as to date when members will take office, and 1412 of 1907 (*Gazette*, 27/12/07) and 13 of 1908 (*Gazette*, 3/1/08, *erratum*) as to members of school boards.

† See Govt. Notice No. 1100 of 1907 as to date of nominations at first election and regulations published under Govt. Notice No. 1102 of 1907 as to completion of elections (*Gazette*, 11/10/07, pp. 56-57), and Govt. Notice No. 1231 of 1907 (*Gazette*, 14/11/07, p. 289); and see also Govt. Notice No. 1281 of 1907 (*Gazette*, 22/11/07, p. 351) as to date on which members will enter upon office.

(3) Every election or appointment of members of boards (other than boards constituted by reason of the exercise of the powers aforesaid) subsequent to the first election or appointment shall be held before the period of office of the existing board expires and every such board constituted after the first board shall assume office on the first day of July of the calendar year in which it is constituted; and every board constituted by reason of the exercise of such powers shall assume office on the day next following the date of the publication of the notice mentioned in sub-section (5) of section *forty-three*.

(4) Every member shall be subject to the provisions of section *forty* be eligible for re-election or reappointment as a member.

Resignation  
or death of  
members.

46. Any member of a board may resign his office on giving one month's previous notice in writing of his intention to the chairman of the board. The said chairman shall at the first meeting after receiving such notice or a notice of any member's death declare a vacancy of such member's office and if such vacancy shall be in the office of an appointed member the chairman shall forthwith transmit such declaration of vacancy to the Minister.

Casual  
vacancies.

47. (1) As often as any elected member of a board shall die or vacate his office in manner aforesaid the remaining members of such board shall as soon as may be after the declaration of vacancy is made choose a qualified person to fill his place.

(2) As often as an appointed member shall die or vacate his office in manner aforesaid the Minister shall as soon as may be after receipt from the chairman of the declaration of vacancy appoint a qualified person to fill his place.

(3) Any person elected or appointed under this section shall hold office for the remainder of the period for which the member who has died or vacated office and whose place is so filled would otherwise have continued in office.

Powers of  
Governor in  
regard to  
boards in  
default.

48. If a board shall make default in carrying out any duties imposed upon it by this Act or by regulation the Governor may order such board to carry out such duties; and in the event of the failure of the board to comply with such order within a time fixed thereby the Governor may dissolve such board and cause a new board to be constituted in manner provided as aforesaid; provided always that during any period between the dissolution of one board and the constitution of another board under this section the powers and duties of such board shall be and are hereby vested in the department.

Outgoing  
members to  
hold office till  
new members  
appointed.

49. If at any time on the termination of the period of office of members of a board otherwise than by dissolution of such board under the last preceding section a new board shall not have been constituted as provided by this Act such members shall notwithstanding the termination of their period of office continue to be a duly constituted board until a new board has been constituted as provided by this Act.

Expenses of  
elections.

50. The expenses incidental to the conduct of elections held under this Chapter shall be paid out of the general revenue.

51. (1) A board shall at its first meeting or as soon thereafter as may be convenient elect one of its members to be chairman of the board and another to be vice-chairman thereof. Election and powers of chairman of board.

(2) If the chairman be absent from any meeting the vice-chairman shall preside and in the event of the absence both of the chairman and of the vice-chairman the members present shall elect one of their number to preside at such meeting.

(3) Any person presiding at a meeting of the board in accordance with this section shall have a deliberative as well as a casting vote.

52. Every board shall decide what number of members shall constitute a quorum at the meetings of such board; provided that in no case shall such quorum be less than three or more than five members. Quorum of boards.

53. Minutes of the proceedings of every meeting of a board shall be regularly kept in a book set apart for the purpose and such minutes shall be submitted for confirmation at the next subsequent meeting and if confirmed signed by the person presiding thereat. The Director or any person nominated by him for the purpose shall at all reasonable times have access to such minutes. Minutes of meetings.

54. A board shall at its first meeting or as soon thereafter as may be appointed subject to the approval of the Director a secretary and a treasurer; provided that Appointment and remuneration of secretary and treasurer.

(1) if a member be appointed secretary or treasurer he shall receive no remuneration for his services other than reasonable travelling expenses;

\* (2) if the person appointed to either of such offices be not a member he shall receive such remuneration (if any) as may be fixed by the Minister;

(3) the offices of secretary and treasurer may be held by the same person.

55. Ordinary meetings of the board shall be held at such intervals not being longer than two months as it may from time to time determine. Meetings of the board.

Special meetings of the board shall be convened by the chairman or in his absence by the vice-chairman upon a requisition in writing signed by two members thereof.

56. (1) All legal proceedings by or against a school board constituted as aforesaid shall be taken in the name of the chairman thereof. Miscellaneous provisions relating to boards.

(2) No payment shall be made by the treasurer out of the funds of the board except in pursuance of a resolution of the board.

(3) Every order notice or other document requiring authentication by the board shall be deemed to be sufficiently authenticated if signed by the chairman and secretary thereof.

(4) Every contract of the board shall be deemed to be duly executed by or on behalf of the board if signed by the chairman and any one or more members thereto authorized by resolution of the board.

\* See Govt. Notice No. 1325 of 1907 (*Gazette*, 6/12/07, p. 440), regulations re conditions of service of secretaries of school boards.

## (C.)—Powers and Duties of Boards.

Certain schools excluded from supervision by boards.

† 57. (1) The schools classes and institutions enumerated in the Third Schedule to this Act or in such Schedule as amended under the powers of this section shall be and are hereby excluded from the supervision of boards; provided always that the Governor may from time to time by proclamation in the *Gazette* and after three months' notice in the *Gazette* be given of intention to issue such proclamation bring any of such schools classes or institutions under the supervision of a board.

† (2) The Governor may further from time to time in like manner add to such Schedule the name of any school class or institution *\*or any group of schools classes or institutions* established maintained or aided under this Act and existing at the date of the taking effect of this Act or thereafter established and thereby remove such school class or institution *\*or group of schools classes or institutions* from the supervision of a board.

General powers of boards.

58. (1) Save as provided in the last preceding section a board shall have and exercise general supervision over all public schools classes and institutions and all schools established or maintained under sub-section (a) of section *twenty-eight* within its district together with any powers and duties conferred or imposed on it by this Act or by regulation.

(2) Any member of such board shall have the right to enter any such school class or institution provided he does not interfere in any manner with the work which is being carried on therein.

(3) It shall be the duty of the Director to transmit to each board copies of reports of inspectors of education on the schools classes and institutions under its supervision and each board may make recommendations to the department on any matters contained in or arising out of such reports or on any matter which has been submitted to the board in writing concerning the welfare of any such school class or institution.

Advice by board as to provision of schools in district.

59. Save as is otherwise provided in section *fifty-seven* a board shall advise the department on all matters connected with the provision of schools or school accommodation in its district. No alteration shall be made in the provision of public schools or school accommodation in any district by opening or changing the sites of public schools or any part thereof except upon the recommendation of the board of such district. *A board may also advise the department with regard to the boundaries of the areas within which public schools should be provided for serving the educational needs of those areas.* ‡

Board to receive and deal with applications for grants to farm schools.

60. Every application for a grant to be made under section *seventeen* to any farm school shall be made to the board of the district in which such school is situate and the board shall consider and make recommendations to the Director upon every

† The Third Schedule was amended by Procs. (Admn.) Nos. 40 and 90 of 1909 and Govt. Notice No. 495 of 1910 (*Gazette*, 13/5/10).

\* Words in italics inserted by Act No. 3 of 1909, sec. 6.

‡ Words in italics added by Act No. 3 of 1909, sec. 7.

such application; provided always that the board may refuse any such application without reference to the Director; provided further that an appeal shall lie to the Director against any such refusal.

61. A board shall carry out all such functions as may be from time to time delegated to it by the department in connection with the erection or purchase lease or other acquisition of school buildings teachers' dwellings boarding-houses for pupils or of other premises accessory to a school within its district and in connection with the acquisition of sites therefor.

Duties of board in connection with school premises.

62. A board shall administer in accordance with regulation any moneys which may be allocated to it out of the general revenue of the Colony for the purpose of

Administration of certain funds by the board.

- (1) repairs or alterations to school buildings or premises accessory thereto;
- (2) school furniture and equipment;
- (3) bursaries;
- (4) any costs of proceedings under sections *twenty-one* and *twenty-two*;
- (5) any other matter connected with the carrying out of its powers and duties under this Act or by regulation.

63. The board shall be responsible for the care of the buildings of any school or institution under its supervision and the premises accessory thereto including boarding-houses and teachers' dwellings and furniture and equipment being the property of the Government of any such buildings houses dwellings or premises and shall have absolute discretion to grant or refuse the use of any such buildings or premises for any purpose other than school purposes outside school hours; provided that any power or duty conferred upon a board under this section may be assigned by such board in the case of any particular school or institution to the committee or managing body of such school or institution.

Powers and duties as to use and care of school buildings.

64. The board shall consider any matter submitted to it by the committee or managing body of any school class or institution under its supervision and may make recommendations to the Director thereon; provided always that the board may decide upon any matter so submitted without reference to the Director; provided further that an appeal shall lie to the Director against such decision of the board.

Board to consider matters submitted by committees and managing bodies.

65. A board shall keep such records statistics registers and accounts as may be prescribed by regulation; and shall prepare and transmit to the department such returns and reports as may be required from time to time by the department; and in particular a board shall transmit to the department as soon as may be after the end of every year financial statements made up to the end of such year and in the form prescribed by regulation showing

Keeping of records registers and accounts.

- (a) receipts and expenditure of any moneys allocated to such board under section *sixty-two*; and
- (b) receipts and expenditure of any other moneys received by it for educational purposes.

*(D).—School Committees.*

Temporary continuation of existing school committees.

66. All school committees constituted under Ordinance No. 7 of 1903 and in existence at the date of the taking effect of this Act shall continue in existence until the thirtieth day of June 1908 and as from such date committees shall be constituted as hereinafter provided.

Constitution of committees.

67. (1) A committee consisting of not less than five and not more than seven members (as the board of the district may determine) may be elected for any public school (except an aided farm school and any school mentioned in the Third Schedule to this Act or in such Schedule as amended under the powers of section *fifty-seven*) by parents resident within the school district or within three miles of the boundaries thereof who at the time of election have one or more children on the roll of such school, ~~and every such committee shall hold office for a period of three years. A person qualified under sub-section (1) of section forty to be a member of a school board in any school district shall be qualified for election as a member of any school committee within such school district; provided that a person shall not be disqualified from being a member of a school committee merely by reason of his being~~  
*alien.\**

†(2) *If a requisition signed by not less than fifty per centum of the parents of children on the roll of such school for which there is no committee be transmitted to the board such committee shall be constituted for such school.*

Powers of board to manage schools without committees in certain cases.

‡68. A board may manage any public school or group of public schools either directly or through a sub-committee of its own members and for that purpose shall have all the powers and duties of committees under this Act; provided that in the case of a school for which a committee is in existence at the date of the taking effect of this Act the powers of the board under this section shall only be exercised at the request of such committee and thereupon such committee shall be dissolved.

Mode of election of committees.

§69. The election of a committee for any school shall be carried out under the direction of the board for the district in which such school is situate and the board shall appoint returning officers call for nominations and make any arrangements necessary for the taking of a poll subject to regulation.

Procedure at meetings of committees.

70. *Repealed by Act No. 3, 1909, section eight.*

Powers and duties of committees.

71. The powers and duties of a committee shall be  
(1) to bring to the notice of the board any matter which in the opinion of such committee concerns the welfare or the efficiency of the school;  
(2) to take such steps subject to the provisions of section *sixty-three* as may appear to it advisable in order to ensure that the school buildings and premises are kept in good order and repair;

\* Words in italics added by Act No. 28 of 1908, sec. 2.

† Sub-sec. (2) substituted by Act No. 28 of 1908, sec. 2.

‡ As amended by Act No. 28 of 1908, sec. 3.

§ As amended by Act No. 28 of 1908, sec. 3.

(3) to take such part in the appointment or suspension or dismissal of teachers as is prescribed by sections *seventy-eight eighty or eighty-one*;

(4) such other powers and duties as the board may lawfully delegate to it or may be conferred or imposed on it by any provision of this Act.

72. All communications of a committee on matters concerning its school shall be addressed to the board and not to the department. (Communications of committees.)

(E).—*Local Management of Schools Classes and Institutions not under the Supervision of Boards or for which Committees are not by this Act provided.*

73. The Minister may from time to time make arrangements for the establishment of (Governing and managing bodies for schools and institutions not under boards.)

(a) a governing body of any public school or group of public schools or of any public institution which is not subject under this Act to supervision by a Board; or

(b) a managing body of any public class or institution or course of such classes or group of such institutions whether under the supervision of a board or not

and the powers and duties of such governing or managing body shall be as prescribed from time to time by regulation.\*

#### CHAPTER X. TEACHING STAFF.

74. The conditions of appointment and service and the provisions relating to the suspension or dismissal of teachers set forth in sections *seventy-five to eighty-one* inclusive shall apply only to such teachers as may be engaged in or appointed to the public schools classes and institutions mentioned in sections *sixteen twenty-three or twenty-six*; provided always that the Minister may from time to time prescribe that such conditions and provisions or any of them shall *mutatis mutandis* apply to all or any of the teachers or officers appointed to any other school class or institution established maintained or aided under this Act. (Provisions of sections *seventy-five to eighty-one* inclusive not to apply to certain teachers except upon order of the Minister.)

75. Every teacher in a school class or institution established maintained or aided under this Act shall hold a certificate or licence to teach issued by the department. (Certificate or licence of the department necessary.)

76. Any teacher who has satisfactorily completed such period of probation as may be prescribed by regulation may be admitted to the regular teaching staff of the department and thereupon a contract of service shall be entered into between such teacher and the department binding each party to carry out the conditions of service prescribed by regulation. (Teachers on the regular teaching staff to be engaged under contract.)

77. The relative grades of every post in a school class or institution established maintained or aided under this Act shall be as the Director may from time to time prescribe and the qualifications required for and the salaries attaching to any grade of post shall be as set forth in the conditions of service in the last preceding section referred to. (Grading of posts and qualifications to be set forth in conditions of service.)

\* As to regulations Transvaal Home Industries Board, see Govt. Notice No. 1327 of 1907 (*Gazette*, 6/12/07, p. 441).

Appointment  
of teachers in  
schools under  
boards.

78. Any vacancy on the teaching staff of a school class or institution which is under the supervision of a board shall so far as is convenient be advertised in the *Gazette* and the board after consultation with and as far as possible upon the recommendation of the committee or managing body (if any) shall recommend to the Director one or more applicants qualified for the vacant post and the Director shall appoint one of such applicants; provided always that the Director may decline to appoint any of the applicants recommended by the board if in his opinion such appointment would not be in the best interests of the school class or institution; ~~provided further that the Director shall before acting report to the Minister for his consideration every case in which he is not prepared to accept the board's recommendation.~~

Appointment  
of acting  
teachers.

79. The Director may appoint a person to act as teacher if any post become permanently or temporarily vacant in a school class or institution under the supervision of a board; provided that no such person shall *unless he is a substitute for a teacher who is on leave of absence\** continue so to act for more than one term or course of instruction except with the approval of the board acting on the recommendation of the committee or managing body (if any) as the case may be.

Suspension  
of teachers.

80. Any teacher may be suspended from the duties and emoluments of his office by any board committee or governing or managing body of a school class or institution at which such teacher is employed or by the Director if such school class or institution be under the direct supervision of the department pending an enquiry by the department if a definite written charge of immorality or habitual intoxication be made against him by an inspector of education or by not less than two other persons.

Dismissal of  
teachers.

81. Any board may upon a complaint made by a committee or managing body recommend to the Director the dismissal of any teacher employed in a school class or institution under its supervision and the Director shall act upon such recommendation; provided that no teacher shall be dismissed except for substantial failure to comply with the provisions of this Act or of any regulation or on grounds set forth in the conditions of service aforesaid; provided further that the Director shall before acting report to the Minister for his consideration every case in which he is not prepared to accept the board's recommendation.

Appointment  
of teachers in  
school not  
under board.

82. The provisions of sections *seventy-eight* and *eighty-one* shall apply to the teaching staff in a public school class or institution which is not under the supervision of a board save that the governing or managing body thereof shall perform the functions in such sections prescribed for both the committee and the board.

Service under  
contract to  
count as  
pensionable  
service.

83. The service of any teacher under a contract existing with the department at the date of the taking effect of this

\* Words in italics inserted by Act No. 3 of 1909, sec. 9.



(2) Whenever after the taking effect of this Act any farm or portion of a farm is laid out as a township whether under Law No. 15 of 1898 or under the Precious Stones Ordinance 1903 or any amendment of such laws or under any other law ground of ~~such~~ <sup>as to</sup> situation and extent shall be reserved for schools or institutions to be established under this Act or any amendment thereof and shall be available for such purposes until and so long as the same is required therefor.

89. If through any error accident or omission anything required by this Act or by regulation to be done in the appointment of members of a board or in the conduct of any election of members of a board or committee is omitted to be done or is not done within the time fixed by this Act or by regulation the Governor may order all such steps to be taken as may be necessary to rectify any such error accident or omission or may validate anything which may have been irregularly done in matter or form so that the intent and purpose of this Act may have effect.

\* 90. (1) The Minister may from time to time make alter and rescind regulations not inconsistent with the provisions of this Act

(a) prescribing the duties of the Director inspectors or other officers of the department;

(b) prescribing the conditions of appointment and service of teachers employed in schools classes and institutions established maintained or aided under this Act;

\* See Govt. Notice No. 1126 of 1907 (*Gazette*, 11/10/07) adopting all existing regulations until the same can be considered by the Council of Education, but see Govt. Notice No. 37 of 1909 (*Gazette*, 8/1/09) rescinding regulations under Govt. Notice No. 1050 of 1904. The following regulations were made under this section:—*Re* elections school committees, see Govt. Notice No. 339 of 1908 (*Gazette*, 3/4/08); regulations school committees, see Govt. Notice No. 1051 of 1909 (*Gazette*, 10/9/09); regulations school board elections, see Govt. Notice No. 1102 of 1907 (*Gazette*, 7/10/07); finance regulations school boards, see Govt. Notice No. 1257 of 1909 (*Gazette*, 5/11/09); regulations *re* conditions of service secretaries of school boards, see Govt. Notice No. 1325 of 1907 (*Gazette*, 6/12/07); grant of leave to secretaries school boards and attendance officers, see Govt. Notice No. 910 of 1909 (*Gazette*, 13/8/09); transport of children by school board, see Govt. Notice No. 268 of 1909 (*Gazette*, 5/3/09); railway tickets, see Govt. Notice No. 986 of 1909 (*Gazette*, 27/8/09); primary and secondary education of white children, see Govt. Notices Nos. 309 of 1909 (*Gazette*, 19/3/09), 568 of 1910 (*Gazette*, 27/5/10), 576 of 1910 (*Gazette*, 30/5/10); bursary regulations, see Govt. Notice No. 1442 of 1909 (*Gazette*, 24/12/09); punishment of pupils, see Govt. Notice No. 487 of 1910 (*Gazette*, 13/5/10); continuation classes, see Govt. Notice No. 915 of 1909 (*Gazette*, 13/8/09); technical schools, see Govt. Notice No. 452 of 1909 (*Gazette*, 30/4/09); hire of buildings erected for school purposes, see Govt. Notice No. 538 of 1910 (*Gazette*, 27/5/10); grants-in-aid of school libraries, see Govt. Notice No. 482 of 1910 (*Gazette*, 13/5/10); grants-in-aid of native schools, see Govt. No. 758 of 1908 (*Gazette*, 14/8/08); conditions of service of teachers on regular staff of Education Department, see Govt. Notices Nos. 1441 of 1909 (*Gazette*, 24/12/09) and No. 582 of 1910 (*Gazette*, 30/5/10); training of teachers and issue of certificates, see Govt. Notices No. 519 of 1909 (*Gazette*, 14/5/09) and 542 of 1910 (*Gazette*, 27/5/10); training of licensed assistants, see Govt. Notice No. 832 of 1909 (*Gazette*, 23/7/09); constitution governing bodies secondary schools, Johannesburg, see Govt. Notice No. 562 of 1908 (*Gazette*, 19/6/08); Pretoria secondary schools governing body, see Govt. Notice No. 406 of 1910 (*Gazette*, 22/4/10); Pretoria trades school and polytechnic, see Govt. Notice No. 261 of 1910 (*Gazette*, 11/3/10); Potchefstroom industrial school and hostel, see Govt. Notice No. No. 909 of 1909 (*Gazette*, 13/8/09); Langlaagte industrial school and Hostel, see Govt. Notice No. 1053 of 1909 (*Gazette*, 10/9/09).

Rectification of errors and validation of irregularities in appointment and election of members of boards and committees.

Power to make regulations.

- (c) prescribing the conditions of the grant or withdrawal of any bursary provided under this Act;
- (d) prescribing the age of admission to and the subjects of instruction to be given in any school class or institution described in Chapters III IV and V of this Act save such institutions of a scientific or advanced literary character as are described in sub-section (c) (1) of section *five*;
- (e) prescribing and compelling courses of military drill exercises or training in all public schools;
- (f) prescribing the scale of fees chargeable in schools classes or institutions where the imposition of fees is authorized by this Act;
- (g) prescribing the manner and form of registration of schools mentioned in Chapter VIII and the manner in which such registers as are mentioned in section *thirty-five* shall be kept and the form of any such register;
- (h) prescribing the periods and days to be observed as holidays or vacation in schools classes and institutions described in Chapters III IV and V other than such institutions of a scientific or advanced literary character as are described in sub-section (c) (i) of section *five*;
- (i) prescribing conditions of any examination held by the department and the fees payable for any examination held by or under the supervision or control of the department;
- \**(j)* prescribing the form of nomination and the manner of taking a poll at any election of a board or committee under this Act and generally for the conduct of such elections and matters incidental thereto not specifically provided for in this Act;
- (k) prescribing the manner in which moneys allocated to a board out of the general revenue shall be administered and the form and manner in which accounts of such moneys or any other moneys of the board shall be kept;
- (l) prescribing the manner in which records statistics and registers of boards shall be kept and returns and reports made to the department and the form of any such register;
- (m) prescribing the constitution powers and duties of governing and managing bodies established under section *seventy-three*;
- (n) generally for better carrying out the objects and purposes of this Act.
- §(o) *prescribing the election and powers of the chairman and vice-chairman of any school committee, the filling of vacancies, the quorum at meetings, the keeping of minutes, the intervals at which meetings shall be held, the convening of special meetings, the appointment of secretary and treasurer, and generally the procedure to be adopted at meetings of school committees.*

\* For regulations made under this sub-section see Govt. Notice No. 1102 of 1907 (*Gazette*, 11/10/07, p. 57) and Govt. Notice No. 1230 of 1907 (*Gazette*, 14/11/07, p. 289).

§ Paragraph (o) added by Act No. 3 of 1909, sec. 11.

(2) The regulations made under sub-section (j) of this section may prescribe penalties for any contravention thereof not exceeding in the case of a fine one hundred pounds and in the case of imprisonment twelve months with or without hard labour.

|| (3) *All such regulations, or any alteration or rescission thereof, shall be published in the Gazette, and shall within seven days after such publication be laid upon the tables of both Houses of Parliament, if Parliament be then in session, or, if it be not then in session, within seven days after the commencement of its next ensuing session.*

Title and date  
of taking  
effect.

91. This Act may be cited for all purposes as the Education Act 1907 and shall take effect save as to Chapter II on the first day of October 1907 and as to Chapter II on the date of the first publication of the Act in the *Gazette*. ‡

\* FIRST SCHEDULE.

LIST OF SCHOOLS MAKING PROVISION FOR SECONDARY EDUCATION WHICH ARE ESTABLISHED OR MAINTAINED UNDER SECTION *Twenty-three* OF THIS ACT.

- Barberton, Public School.
- † Boksburg, Public School.
- ‡ Christiana, Public School.
- Ermelo, Public School.
- Ermelo, Uitkomst School.
- † Germiston, Public School.
- Heidelberg, Public School.
- Heidelberg, Volksschool.
- Jeppe, High School for Boys and Girls.
- || Johannesburg, German School.
- Johannesburg, High School for Boys.
- Johannesburg, High School for Girls.
- Klerksdorp, Public School.
- Krugersdorp, Secondary School.
- ¶ Lichtenburg, Public School.
- Middelburg, Public School.
- Middelburg, Volksschool.
- Pietersburg, Public School.
- Potchefstroom, High School for Boys.
- Potchefstroom, High School for Girls.
- Pretoria, High School for Boys.
- Pretoria, High School for Girls.
- Rustenburg, Public School.
- Standerton, Public School.
- \*\* Ventersdorp, Public School.
- Volksrust, Public School.
- Wakkerstroom, Public School.
- †† Wolharansstad, Public School.
- Zeerust, Public School.

|| Sub-section (3) added by Act No. 3 of 1909, sec. 11.

‡ This date was the 26th August, 1907.

\* Pretoria Eendracht School deleted by Proc. (Admn.) No. 35 of 1910.

† Added by Proc. (Admn.) No. 11 of 1909.

‡ Added by Proc. (Admn.) No. 26 of 1909.

|| Added by Proc. (Admn.) No. 93 of 1908.

¶ Added by Proc. (Admn.) No. 42 of 1910.

\*\* Added by Proc. (Admn.) No. 20 of 1910.

†† Added by Proc. (Admn.) No. 79 of 1909.

## SECOND SCHEDULE.

SCHOOL DISTRICTS CONSTITUTED UNDER SECTION *Thirty-eight* OF THIS ACT.

<i>Name of School District.</i>	<i>Definition of Area.</i>
1. Barberton ... ..	The electoral division of Barberton.
2. * Bethal ... ..	<del>Polling districts Nos. 1, 2, 3, 4, 5, and 7 of the electoral division of Bethal.</del>
3. Bloemhof ... ..	The electoral division of Bloemhof.
<del>4. Carolina ... ..</del>	<del>The electoral division of Carolina.</del>
5. Ermelo ... ..	The electoral division of Ermelo.
6. Heidelberg... ..	The electoral divisions of Heidelberg and Roodekoppes.
7. Klerksdorp ... ..	The electoral division of Klerksdorp.
8. Lichtenburg ... ..	The electoral division of Lichtenburg.
9. * Lydenburg North	<del>The electoral division of Lydenburg North and polling districts Nos. 1 and 2 of the electoral division of Lydenburg South.</del>
10. * Lydenburg South	<del>Polling districts Nos. 3, 4, 5, 6, 7, 8, and 9 of the electoral division of Lydenburg South.</del>
11. Marico ... ..	The electoral division of Marico.
12. Middelburg ... ..	The electoral divisions of Middelburg East and Middelburg West.
13. † Piet Retief ... ..	<del>Polling districts Nos. 1, 2, 3, 4, 5, 6, 7, 8, and 9 of the electoral division of Wakkerstroom.</del>
14. Potchefstroom ... ..	<del>The electoral divisions of Losberg and Potchefstroom.</del>
15. ‡ Pretoria ... ..	<del>The electoral divisions of Arcadia, Berea, Burgheersdorp, Pretoria East, Pretoria North Central, Pretoria South Central, Pretoria North-West, Wonderboom, and polling districts Nos. 1, 2, 3, 4, and 6 of the electoral division of Pretoria South-West.</del>
16. Rustenburg ... ..	The electoral divisions of Rustenburg North and Rustenburg South.
17. * Standerton ... ..	<del>The electoral division of Standerton and polling districts Nos. 6, 8, and 9 of the electoral division of Bethal.</del>
18. Ventersdorp ... ..	The electoral division of Ventersdorp.
19. Volksrust ... ..	The electoral division of Volksrust.
20. † Wakkerstroom ... ..	<del>Polling districts Nos. 10, 11, 12, 13, 14, 15, and 16 of the electoral division of Wakkerstroom.</del>
21. Waterberg ... ..	The electoral division of Waterberg.
22. † Witwatersrand Central...	<del>The electoral divisions of Bezuidenhout, Clifton, Denver, Ferreiras, Fordsburg, Hospital, Jeppe, Langlaagte, Marshallstown, Newtown, Ophirton, Parktown, Robinson, Siemert, Troyeville, Turfontein, Union, Von Brandis, Vrededorp, West City and Suburban, Yeoville, and polling district No. 5 of the electoral division of Pretoria South-West.</del>
23. Witwatersrand East ... ..	The electoral divisions of Boksburg East, Boksburg West, Georgetown, Germiston Central, Germiston North, Germiston West, Klippoortje, and Springs.
24. Witwatersrand West ... ..	The electoral divisions of Krugersdorp, Maraisburg, Randfontein, Roodepoort.
25. Witwatersberg ... ..	The electoral division of Witwatersberg.
26. Wolmaransstad ... ..	The electoral division of Wolmaransstad.
27. Zoutpansberg ... ..	The electoral divisions of Zoutpansberg East and Zoutpansberg West.

\* Substituted by Proc. (Admn.) No. 44 of 1909.

† Added by Proc. (Admn.) No. 37 of 1910.

‡ Substituted by Proc. (Admn.) No. 37 of 1910.

## THIRD SCHEDULE.\*

SCHOOLS CLASSES † *CONTINUATION CLASSES* OR INSTITUTIONS EXCLUDED FROM THE SUPERVISION OF SCHOOL BOARDS UNDER SECTION *Fifty-seven* OF THIS ACT.

‡ *The Heidelberg Normal College.*

The Jeppe High School for Boys and Girls, with the preparatory department attached thereto.

The Johannesburg High School for Boys (generally known as the Johannesburg College), with the preparatory department attached thereto.

The Johannesburg High School for Girls (generally known as the Cleveland High School), with the preparatory department attached thereto.

‡ *The Johannesburg Normal College.*

The Potchefstroom High School for Boys (generally known as the Potchefstroom College).

The Potchefstroom Secondary School for Girls, with the preparatory department attached thereto.

Pretoria High School for Boys (generally known as the Pretoria College).

Pretoria High School for Girls, with the preparatory department attached thereto.

Pretoria Normal College.

The Transvaal University College.

\* Pretoria Eendracht School deleted under Govt. Notice No. 495 of 1910 (*Gazette*, 13/5/10).

† Words in italics added by Proc. (Admn.) No. 90 of 1909.

‡ Added by Proc. (Admn.) No. 40 of 1908.

Act No. 26 of 1907.]

[Promulgated 26th August, 1907.]

## \* AN ACT

TO ESTABLISH AND REGULATE THE MANAGEMENT AND CONTROL  
OF A LAND AND AGRICULTURAL BANK.

(Assented to 19th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

## PRELIMINARY.

1. In this Act unless inconsistent with the context "bank" shall mean the land and agricultural bank established under section *two*;
- "board" shall mean the board constituted in accordance with section *three*;
- "co-operative society" shall mean a society
  - (1) all the members of which are *bona fide* farmers residing in this Colony; and
  - (2) formed for the purpose of promoting agriculture or any agricultural or rural industry in this Colony and incorporated and registered according to the laws of the Colony; and
  - (3) the objects and articles of association of which are approved by the board and by the Minister of Agriculture;
- "Governor" shall mean the officer for the time being administering the Government of this Colony acting by and with the advice of the Executive Council thereof;
- "immovable property" shall include in addition to property regarded by law as immovable all structures annexed to the soil whether such structures be permanently fixed to it or not;
- "manager" shall mean the manager of the bank appointed under section *five* or any person lawfully acting in such capacity;
- "staff" shall mean the officers and clerks of the board appointed under section *six*;
- "Treasurer" shall mean the Colonial Treasurer or the person who is for the time being lawfully acting as such.

Interpreta-  
tion of terms.

\* See Act No. 12 of 1908, Chapter I (advances for fencing), Act No. 27 of 1908, sec. 74 (3) (advances for purposes of irrigation), Act No. 37 of 1908, Act No. 17 of 1909.

## PART I.

## ESTABLISHMENT AND MANAGEMENT OF A LAND AND AGRICULTURAL BANK.

Establishment of a land and agricultural bank.

2. (1) There shall be established in this Colony a land and agricultural bank administered and managed as herein-after provided.

(2) The bank shall be a body corporate with perpetual succession and shall under the name of the "Transvaal Land and Agricultural Bank" be capable of suing and being sued and subject to the provisions of section *forty-one* of purchasing or otherwise acquiring holding and alienating property movable or immovable and of doing and performing such acts and things as bodies corporate may by law do and perform subject to the provisions of this Act or any amendment thereof or any regulation made thereunder.

†(3) The bank shall be deemed to have been established as from a date to be notified in the *Gazette* under the hand of the Minister of Agriculture.

Establishment of a board of management.

\* 3. The bank shall be controlled by a board consisting of five members who shall be nominated by the Governor and shall subject to the provisions hereinafter contained hold office for five years. All such nominations shall within seven days thereof be laid before both Houses of Parliament if then sitting or if they be not then sitting within seven days after the commencement of the next session and may be vetoed upon presentation of an address to the Governor by both such Houses within a month thereafter.

Election of chairman.

4. *Repealed by Act No. 17, 1909, section two.*

Manager of bank.

5. *Repealed by Act No. 17, 1909, section two.*

Appointment of officers by manager.

6. (1) The board upon the recommendation of the manager and with the approval of the Governor may from time to time appoint such officers and clerks as may be necessary for conducting the business of the bank and may upon the like recommendation and with the like approval from time to time remove such officers and clerks.

The staff shall be subject to the orders direction and control of the manager and shall be paid such salaries as he may recommend and the board may from time to time with the approval of the Governor determine.

(2) Any resident magistrate assistant resident magistrate the Postmaster-General and any officers under them may be required to act as agents for the bank without additional emolument.

Security to be given by manager and staff.

7. The manager and every member of the staff shall severally give security for the faithful discharge of his duties in such form and to such amounts as the board may from time to time require.

Employment of inspectors and valuers of property.

8. The board may employ such persons as it may think fit to inspect report upon and value any property and all resident

† The Bank was actually opened for transaction of business on 4th Nov., 1907.  
\* See Act No. 17 of 1909, sec. 2.

magistrates and other officers of the Government shall on the request of the board report on any cases submitted to them. The board shall also have access to the valuation rolls of all local rating authorities and it shall be the duty of officers of such authorities to supply to the board upon application particulars as to any valuation of rateable property within their respective areas.

\*9. Save as is otherwise provided in section *thirty-four* of this Act all deeds instruments contracts and other documents shall be deemed to be duly executed by or on behalf of the bank if signed by the manager underneath the name of the bank and countersigned by one member of the board.

Execution of documents.

10. Of the five members of the board who shall be first nominated one shall retire annually in rotation. The dates of such retirement shall be the first day of July in the year 1908 and in every year thereafter and the members so retiring shall unless they agree amongst themselves which shall retire be determined by lot immediately after such first nomination and the place of the member retiring shall be filled by nomination of another member in his place by the Governor and thereafter such members shall retire in the order of the date of their nomination; a retiring member shall be eligible for renomination.

Retirement of first members of the board.

11. (1) No member of the board shall at any meeting of the board take part in the discussion of or vote upon

Circumstances in which members of board may not vote on applications for advances,

(a) any application for an advance under this Act by any person who is related to such member within the third degree of affinity or consanguinity; or

(b) any such application by any person who is a debtor or creditor of such member; or

(c) any such application by any person who is a debtor under a mortgage bond of any body of persons whether incorporated or not of which such member is a director or under which such member holds any office or position other than that of auditor.

(2) Any person who contravenes this section shall be liable on conviction to a fine not exceeding two hundred pounds sterling and in default of payment to imprisonment with or without hard labour for a period not exceeding three months and the Court before which he is convicted may order that he shall vacate his seat and his seat shall thereupon become vacant.

Suspension of members of board.

12. The Governor may suspend any member of the board from his office for incapacity or misbehaviour but in every such case a full statement of the cause of such suspension shall within seven days thereof be laid before both Houses of Parliament if then in session or if Parliament be not then in session within seven days after the commencement of its next session and unless an address shall within one month afterwards during any such session be presented to the Governor by both Houses of Parliament praying for the retention of such member in his office the Governor may remove him.

\* See, however, Act No. 37 of 1908, sec. 2.



Circumstances in which members of board vacate office.

- †13. A member of the board shall vacate his office
- (a) if he becomes insolvent or assigns his estate for the benefit of his creditors or makes an arrangement with his creditors;
  - (b) if he dies or becomes of unsound mind or is convicted of an offence and sentenced to imprisonment without the option of a fine;
  - (c) if he be absent from four consecutive ordinary meetings of the board without the leave of the board which leave shall not be granted for a period covering more than *six*\* months in one year;
  - (d) upon the presentation of an address to the Governor by both Houses of Parliament in one session praying for his removal;
  - (e) if he give one month's notice in writing of his intention to resign office and his resignation shall have been accepted by the board.

Any person nominated to fill the place of any member so vacating office before the expiration of his period of office shall hold office for the remainder of the period for which such member would but for his vacation of office have held the same.

Remuneration of members of board.

14. There shall be paid to the members of the board an aggregate sum not exceeding two thousand pounds per annum which shall be distributed quarterly amongst the members according to the number of board meetings attended by each such member.

Quorum of board.

15. Three members shall constitute a quorum of any meeting of the board and all acts matters or things authorized or required to be done by the board may be decided by resolution of any meeting at which such quorum is present; provided that when only three members of the board are present no advance shall be made except upon an unanimous resolution.

Meeting of the board.

16. The board shall hold an ordinary meeting once in every week and special meetings at such times as the chairman may summon them on his own motion or on requisition in writing of two members of the board. The chairman shall have at every meeting both a deliberative and a casting vote.

Minutes of proceedings of the meetings.

17. Minutes of the proceedings of every meeting of the board shall be regularly entered in a book to be kept for the purpose containing proper tabulated details of the business conducted or transacted at such meeting. The minutes and proceedings of each meeting shall be submitted at the next ensuing meeting and if passed thereat as correct shall be confirmed by the signature of the person presiding at such meeting and shall thereupon without further proof be evidence in all courts and places of the proceedings of the meeting of which they purport to be minutes.

Board not to make advance to its members or to officers of bank or to certain other persons.

18. The board shall not make any advance to any member thereof nor to any person or official concerned in the management of the bank nor to any person in the employ of the bank; nor shall the board make any advance to any company or

\* Word in italics substituted by Act No. 37 of 1908, sec. 3.

† See Act No. 37 of 1908, sec. 14.

society in which any member of the board is directly or indirectly interested as director manager member or shareholder; provided that nothing in this section contained shall prevent the board from depositing money with any bank.

## PART II.

### THE BUSINESS SECURITIES AND FUNDS OF THE BANK.

19. The business of the bank shall be to advance money on mortgage of the following classes of land:—

Land on which money may be advanced.

- (i) Freehold land;
- (ii) quitrent land;
- (iii) land held under the Occupation Farms Ordinance 1904 or any amendment thereof.

20. Advances may be made by the board for all or any of the following purposes:—

Purposes for which advances may be made by the bank.

(a) To effect improvements in which term shall be included farm buildings water storage or irrigation works fences the clearing of land for cultivation and the planting of trees orchards and vineyards;

(b) for the purchase of stock or plant of all kinds and of agricultural requirements generally;

\* (c) to pay off existing liabilities on land or, in special circumstances, any other liabilities;

(d) to pay costs incidental to the sub-division of land held in undivided shares;

(e) for the establishment and promotion of agricultural and rural industries including the wool tobacco leather dairy and like industries and the cultivation sale and exportation of fruit;

(f) the purchase of land for any of the purposes described in sub-sections (a) (b) and (e) of this section by a person or group of persons whose financial resources are deemed adequate to carry on the purposes described in such sub-sections.

†21. (1) *The funds of the bank shall be two and a half million† pounds sterling, which shall be issued by the Treasurer to the bank from time to time in such sums as the Governor may determine out of any loan raised under the Transvaal Guaranteed Loan Act 1907.*

Funds of the bank.

(2) *The bank shall pay to the Treasurer half-yearly upon such dates as the Treasurer may prescribe, interest at the rate of three and one-half per cent. per annum on the sums issued to the bank under this section.*

(3) *The Treasurer shall apply such interest, as and when received, in accordance with the provisions as to interest of the said Act.*

(4) *The provisions of this section shall take effect as from the first day of October, 1907.*

\* Paragraph (c) substituted by Act No. 37 of 1908, sec. 4.

† This section substituted by Act No. 37 of 1908, sec. 5.

‡ Funds of bank to be two million pounds; see Act No. 17 of 1909, sec. 3.

## PART III.

## VARIOUS KINDS OF LOANS AND SECURITIES.

A.—*Advances on Mortgage.*

Limitation  
in case of  
advances on  
securities  
already  
mortgaged.

22. No advance shall be made on any property which is already encumbered by any mortgage or charge (other than a mortgage or charge under this Act\* or of Part II of Ordinance No. 38 of 1904) unless such advance be for the purpose of discharging a mortgage or charge of prior date.

The board shall in every case decide on the special facts whether an advance for the redemption of a prior mortgage shall be sanctioned and shall in that respect be guided by regulations (if any) made under section forty of this Act.

Mode of  
applications  
for advances  
and amounts  
of same.

23. (1) No advance shall be made to any farmer† except (a) upon his written application; and (b) upon a resolution of a duly constituted meeting of the board at which the question of making the advance is properly considered.

(2) Every such application shall state the purpose for which the advance is required and shall be in a form prescribed by the board.

(3) No advance shall be made for a sum less than fifty pounds except in special cases or for a sum greater than two thousand five hundred pounds nor shall the sums advanced to any one farmer† exceed two thousand five hundred pounds in the aggregate unless in either case such greater sum be for the purpose of executing large agricultural or irrigation works or improvements specially authorized by the Governor; provided that no sum advanced for any such works or improvements shall exceed in the aggregate the sum of five thousand pounds.

Securities  
which may be  
taken.

24. (1) No advance on the security of freehold or quitrent land shall be made for an amount exceeding sixty per centum of the fair agricultural or pastoral value of the land as determined by the board and no advance shall be made on the security of unoccupied land situate in an unhealthy locality.

(2) No advance on the security of land held under the Occupation Farms Ordinance 1904 or any amendment thereof shall be made unless and until all conditions to be fulfilled by the grantee contained or implied in the grant have been so fulfilled at the date when such advance is made and no advance on the security of such land shall in any case be made for an amount exceeding half of the value of the land determined by the board after it has satisfied itself that the security is under all the circumstances sound.

Kinds of  
loans.

25. *Repealed by Act No. 37, 1908, section eight.*

Instalment  
loans on  
freehold and  
quitrent  
property.  
Fixed loans.

26. *Repealed by Act No. 37, 1908, section eight.*

27. *Repealed by Act No. 37, 1908, section eight.*

\* Words in italics substituted by Act No. 37 of 1908, sec. 6.

† Word in italics substituted by Act No. 37 of 1908, sec. 7.

28. (1) In every mortgage to secure a loan made under this Act there shall be implied on the part of the mortgagor and in favour of the mortgagee the covenants and conditions set forth in the First Schedule to this Act.

Covenants and conditions set forth in First Schedule to be implied in mortgages.

(2) All such covenants and conditions shall extend to and include the legal representatives of the mortgagor and mortgagee.

(3) The Governor may on the recommendation of the board from time to time by proclamation in the *Gazette* alter any of such covenants and conditions but no such proclamation shall affect any mortgage existing at the date of its promulgation.

*B.—Advances to Co-operative Societies and on securities other than immovable property.*

29. *Repealed by Act No. 37, 1908, section twelve.*

Conditions upon which co-operative society may obtain advance from bank.

30. *Repealed by Act No. 37, 1908, section twelve.*

Purposes for which co-operative society may obtain advances:

31. *Repealed by Act No. 37, 1908, section twelve.*

Power of Governor to make regulations relative to advances on securities other than of immovable property.

*C.—General Provisions.*

32. *Repealed by Act No. 37, 1908, section fifteen, and new provisions made.*

Readjustment of loans.

33. (1) If at any time principal or interest or any part thereof due under this Act is unpaid for three calendar months next after the time appointed for the payment thereof then notwithstanding legal demand has not been made for such payment and without any recourse to any court of law the bank may enter upon and take possession of and sell the whole or any part of the land or other security under this Act by public auction and subject to any conditions of sale it may think expedient and after such notice of the time place terms and conditions of sale as it may think just and expedient and may transfer such land or other security to the purchaser and give a good and valid title thereto.

Special execution by the bank for payment of loans without recourse to legal proceedings.

(2) The powers by the preceding sub-section conferred may be exercised by the bank in the event of a breach of any other condition of the loan or if a loan is not applied within such time as the bank may consider reasonable to the purpose for which it was granted.

(3) For the purpose of ascertaining whether a loan has been or is being properly applied the bank may by means of any of the staff or inspectors or other persons deputed by it institute such inspections as it may deem advisable.

(4) The board shall apply the proceeds derived from such sale in payment in the first instance of all moneys due in respect of such land or other security and in redemption of any amount charged thereon in favour of the bank or of so much thereof as remains unpaid and of all expenses incurred by the board in relation to such sale or otherwise with respect to such land or other security and shall pay the balance (if any) to the person or persons entitled to receive the same.

Officer of board may act as conveyancer for purposes of Act.

34. (1) Notwithstanding anything to the contrary contained in any law or regulation made under a law all mortgages or documents of pledge or other securities under this Act as well as deeds of transfer in favour of the bank executed for the purposes of this Act may be prepared and executed by an officer of the bank specially appointed for the purpose and such officer may with respect to such documents perform the functions of a notary public and conveyancer. All such documents shall if registerable be accepted for registration in the Deeds Office or other registration office.

(2) No stamp duty transfer duty or fees of office shall be payable in respect of any transactions entered into or any documents executed for the purposes of this Act.

## PART IV.

### ACCOUNTS AND AUDIT.

Periodical publication of financial statements and list of mortgages.

35. The board shall draw up once in every month and publish in the *Gazette*

(1) financial statements on a basis to be approved by the Treasurer;

(2) a complete list of mortgages and securities accepted during the preceding month.

Audit of accounts of bank.

36. The accounts of the bank shall be audited by the Auditor-General of the Colony who shall report to Parliament each year upon the latest balance-sheet and profit and loss account of the bank and upon such other matters as he may deem fit; and the Auditor-General shall have all such powers in respect of the accounts of the bank as are vested in him in respect of the public accounts of the Colony.

Publication and keeping of accounts of the bank.

\*37. The board shall within two months after the thirtieth day of June in every year lay before the Governor and publish in the *Gazette* a statement of accounts showing

(a) the assets and liabilities of the bank as on the said date; and

(b) the profit and loss account for the preceding year together with a statement under convenient headings of the receipts and payments of the bank during the same period.

\* As amended by Act No. 37 of 1908, sec. 16.

Every such statement shall be signed as correct by the manager the accountant of the bank and the Auditor-General and shall be laid before Parliament within seven days if Parliament be then in session or if Parliament be not then in session within seven days after the commencement of its next ensuing session.

In addition to the accounts in this section mentioned the board shall keep record and render to the Treasurer from time to time such other accounts reports and statements as the Treasurer may require.

38. The Treasurer shall have full access to all the accounts documents and papers in the bank and the board shall at all times furnish to him all such information as he may require.

Inspection of accounts and documents by Treasurer.

\*39. (1) *As soon as may be after the coming into operation of this Act the Board shall create a reserve fund which shall be credited from time to time subject to the provisions of subsection (3)*

Reserve fund.

(a) *with a sum equal to five per cent. of the gross amount of interest received during each financial year as from the first day of October, 1907;*

(b) *any net profit earned by the bank.*

(2) *Such fund shall be applied by the board in making good any loss or deficiency which may occur in any of its transactions.*

(3) *The total amount of such fund shall in no case exceed two hundred and fifty thousand pounds.*

(4) *Whenever any balance remains in such fund after providing for such loss or deficiency, it shall be invested on account of such fund in the same manner as any other funds of the bank may by law be invested.*

## PART V.

### GENERAL.

40. The board may from time to time make alter or rescind regulations for all or any of the following purposes:

Power of board to make regulations.

(a) regulating the meetings and proceedings of the board;

(b) prescribing the duties of officers and other persons employed by the board and the efficient performance thereof;

(c) regulating the establishment of agencies;

(d) regulating the management of the bank and its agencies;

(e) specifying the cases in which property given as security shall be insured;

(f) specifying the rules of good husbandry;

(g) prescribing conditions to be imposed in regard to loans for improvements or new works and providing for payment of such loans as work proceeds;

\* This section substituted by Act No. 37 of 1908, sec. 17.

(h) prescribing the forms to be used and the books accounts and records to be kept;

(i) prescribing the procedure to be followed in any case where no procedure is otherwise provided by this Act;

(j) providing for all matters and things arising out of this Act and not therein expressly provided for and generally for fully and effectually carrying out and giving effect to the objects and powers and for guarding against violations or evasions of this Act.

All such regulations shall be subject to the approval of the Governor and from and after the date of publication in the *Gazette* as so approved shall have the force of law in so far as they shall not be repugnant to or inconsistent with any of the provisions of this Act. All such regulations shall be placed upon the tables of both Houses of Parliament within seven days after such publication of the same if Parliament be then in session or if it be not then in session within seven days after the commencement of its next ensuing session.

Bank may only hold land temporarily or for business purposes.

41. It shall not be lawful for the bank to hold land other than is required for its business premises or is temporarily acquired as the result of foreclosure or otherwise on account of debt; and all land so temporarily acquired shall be sold at the earliest favourable opportunity. The manager the members of the board and members of the staff shall not be permitted to buy directly or indirectly any lands sold in accordance with this section.

Penalties.

42. (1) If the manager or any member of the staff or of the board or any agent inspector or valuer directly or indirectly receives any fee or reward from any person in respect of or in connection with a loan or application therefor under this Act he shall be guilty of an offence and shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding five years.

(2) Any person who in respect of or in connection with any loan or application therefor under this Act bribes or attempts to bribe or corruptly influences or attempts to corruptly influence the manager or any member of the board or of the staff or an agent inspector or valuer shall be guilty of an offence and shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding five years.

(3) Any person who

(a) having any pecuniary interest in any land offered as security for a loan under this Act; or

(b) being a partner creditor or debtor of an applicant for a loan;

acts as valuer in connection with the land offered as security for such loan or sits and votes at any meeting of the board upon any resolution having reference to such land or loan shall be liable to a penalty of not less than fifty pounds and not exceeding two hundred pounds and such penalty shall

be recoverable by action in any competent court at the suit of the Attorney-General and when recovered shall be paid into the general revenue of the Colony.

† 43. (1) Valuation fees shall in all cases be payable by any person applying for a loan from the bank and according to the scale in the Second Schedule hereto and a valuator's travelling expenses shall be payable in advance by such person according to a scale framed by the board and approved by the Governor.

Payment of valuation fees.

(2) The costs and fees of preparing completing or discharging any mortgage pledge or other security shall be payable by the mortgagor or pledgor to the bank according to the scale set forth in the Third Schedule hereto.

(3) The Governor may from time to time on the recommendation of the board by proclamation in the *Gazette* alter or add to any such scale of costs or fees.

44. This Act may be cited for all purposes as the Land and Agricultural Bank Act 1907 and shall come into operation on a date to be fixed by the Governor by proclamation in the *Gazette*.\*

Title and date of taking effect.

#### FIRST SCHEDULE.

Covenants to be implied in every mortgage on the part of the person executing the same or his legal representative as a mortgage in favour of the Transvaal Land and Agricultural Bank its successors and assigns as mortgagee.

1. That the mortgagor will pay the principal sum mentioned in the mortgage with interest thereon in accordance with the provisions of the "Land and Agricultural Bank Act 1907" and at the due dates thereof.

2. That the mortgagor will from time to time so long as money remains owing on this security well and substantially repair and keep in good and substantial repair and condition all buildings or other improvements erected and made upon the said land; and the bank may at all times be at liberty by itself its agents or servants to enter upon the said land to view and inspect the said buildings and improvements.

3. That if the mortgagor fails or neglects to repair the said buildings and improvements or to keep them in good and substantial repair and condition as aforesaid then and in any such case and as often as the same shall happen it shall be lawful for but not obligatory upon the bank at the cost and expense in all things of the mortgagor to repair the said buildings and improvements and keep them in good and substantial repair and condition.

4. That all moneys expended by the bank in and about in repairing or keeping in repair any of the said buildings and improvements as aforesaid or in attempting to exercise or enforce any power right or remedy herein contained or implied in favour of the bank shall be payable to the bank by the mortgagor on demand and until paid shall be charged on the said land together with interest at the rate of not more than six per centum per annum computed from the date or dates of such moneys being expended.

5. Insurance shall be effected as may be prescribed by regulation or instruction of the board. Every policy of insurance so effected shall be ceded to the bank as collateral security.

6. That the power of sale and incidental powers in that behalf conferred upon the bank under section *thirty-three* of the Land and Agricultural Bank Act 1907 shall be implied herein and that they may be exercised without any notice or demand whatsoever if and whenever the mortgagor makes default for three months in the full and punctual payment of any instalment of interest or principal in accordance with the respective covenants for payment thereof herein contained

† For remunerations and allowances to sworn valuers, see Govt. Notice No. 222 of 1908 (*Gazette*, 6/3/08, and 27/3/08, *erratum*).

\* The date fixed for the coming into operation of this Act was 1st October, 1907. See Proc. (Admn.) No. 78 of 1907.



or if and whenever the mortgagor makes default in the faithful observance and performance of any other covenant and condition on his part herein contained or implied.

7. That if and whenever the mortgagor makes any such default as in the last preceding covenant mentioned it shall be lawful for the bank to call up and compel payment of all principal interest and other moneys for the time being owing under this security notwithstanding that the time or times hereinbefore appointed for the payment thereof respectively may not have arrived.

\*8. That the mortgagor will at all times cultivate and manage the mortgaged land in a skilful and proper manner and according to the rules of good husbandry. Failure in the performance of this condition shall entail the immediate recovery of the loan should the bank so desire.

9. That this mortgage is subject to all the provisions of the "Land and Agricultural Bank Act 1907" relating to the mortgages under this Act.

### SECOND SCHEDULE.

Scale of valuation fees to be paid by applicant in any event and to accompany the application :—

On application for loan not exceeding £200 ... ..	£1
On application for loan exceeding £200 and not exceeding £500 ... ..	£2
On application for loan exceeding £500 and not exceeding £1000 ... ..	£3
And for every additional £1000 or part thereof ... ..	£1
Valuators travelling expenses according to scale framed by the board and approved by the Governor.	

In every case however when an application is refused without any special valuation having been made for or on behalf of the board the fees and expenses so payable shall with the exception of ten shillings be refunded to the applicant.

### THIRD SCHEDULE.

Scale of cost and fees for preparing mortgage or pledge (to be deducted from the advance) :—

If advance be not exceeding £1000 ... ..	£1	0	0
If advance be over £1000 ... ..	£2	0	0
With cash disbursements which are the same in every case namely :—			
Search fee ... ..	£0	2	0
Mortgage form or pledge form ... ..	£0	2	0
Costs and fees for discharge of mortgage or pledge	£1	1	0

\* See Act No. 37 of 1908, sec. 18.

Act No. 27 of 1907.] [Promulgated 26th August, 1907.]

\* AN ACT

TO AMEND THE VREDEDORP STANDS ORDINANCE 1906.

(Assented to 19th August, 1907.)

WHEREAS the Government of the late South African Republic by certain Executive Council Resolutions No. 709 of 13th December 1893 No. 137 of 20th March 1894 No. 180 of 3rd March 1896 and the First Volksraad by Resolution Article 1181/96 confirming Second Volksraad Resolution Article 940/96 authorized the issue of stand licences on the open stands on Government ground in the area known as the township of Vrededorp to indigent persons for the purposes of occupation by such persons and on certain conditions in the said Resolutions set forth;

And whereas it is expedient that the freehold title to the said stands should be transferred from the Government of this Colony to the Municipal Council of Johannesburg and by it should be transferred to the registered holders of such stands subject to certain conditions;

And whereas it is further expedient that other land in the area known as the township of Vrededorp should be transferred to the said Municipal Council;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The Vrededorp Stands Ordinance 1906 shall be and is hereby repealed.

Repeal of  
Ordinance No.  
31 of 1906.

2. In this Act unless inconsistent with the context:
- “appointed day” shall mean the date of the taking effect of this Act;
- “civil magistrate” shall mean one of the civil magistrates of Johannesburg mentioned in section *fifty-four* of the Magistrates' Courts Proclamation 1902;
- “council” shall mean the municipal council of Johannesburg;
- “owner” shall mean a registered holder who has acquired under this Act the freehold of the stand registered in his name or the person to whom such freehold has been legally transferred;
- “registered holder” shall mean any person for the time being registered as the holder of any stand under a grant made under the resolutions;

Interpreta-  
tion of terms.

\* See Act No. 34 of 1908, sec. 35.

“stand” shall mean any piece of ground set apart as a stand and within the area defined in the first schedule to this Act;

“the resolutions” shall mean the resolutions mentioned in the preamble to this Act;

“town clerk” shall mean the town clerk of Johannesburg or any person lawfully acting in such capacity.

3. (1) On the appointed day the freehold title in so much of the area of land defined in the first schedule hereto as is vested in the Crown (except such portions thereof as are at the date of the taking effect of this Act occupied by the Crown or reserved for public purposes) shall be by the Governor granted to and vested in the council (without reservation to the Crown of the right to minerals mineral products or precious stones on or under such area) and registered in the name of the council in the Deeds Office without payment of transfer duty stamp duty or registration charges; provided that such area when granted to the council shall be held by the council subject to the provisions of this Act.

(2) All rights and obligations of the Government under and by virtue of the resolutions and of any grants made thereunder shall be vested in the council on the appointed day but such rights and obligations and the rights acquired by registered holders under the resolutions shall continue in force subject to the provisions of this Act.

4. On the appointed day or at any time within a period of four years thereafter every registered holder shall be entitled on making application in writing to the town clerk to obtain from the council in substitution for his existing interest in the stand registered in his name a freehold title on payment of the price prescribed by and the other moneys payable under section *five* and subject to the following conditions:—

(a) that such title shall not be transferred to any Asiatic native or coloured person;

(b) that the owner after the expiry of the said period of four years shall not permit any Asiatic native or coloured person (other than the bona fide servant of a white person for the time being residing on the stand) to reside on or occupy the stand or any part thereof;

(c) that the owner shall not transfer or sub-let or permit to be transferred or sub-let the stand or any part thereof to any Asiatic native or coloured person;

(d) if after the expiry of the said period of four years any Asiatic native or coloured person (other than such servant as aforesaid) is found residing on the stand or occupying the same or any part thereof the council may give notice in writing under the hand of the town clerk posted to or delivered at the owner's last known address and affixed to any building or erection on such stand requiring the owner to cause such Asiatic native or coloured person to leave or vacate such stand or part thereof within a period of three months from the date that such

Transfer of  
freehold title  
in Vrededorp  
township  
from  
Government  
to the council.

Right of  
registered  
holder to  
obtain  
freehold from  
the council.

notice is so posted or delivered or to appear before the civil magistrate at an hour on a date and at a place to be named in such notice to show cause why he should not comply with the terms of such notice; and on the failure of such owner to comply with the terms of such notice or to show cause to the satisfaction of such magistrate why he should not so comply such magistrate may declare the title of such owner to be forfeited.

5. (1) The price to be paid to the council for the freehold title to any stand shall be *fifteen*\* pounds and shall become payable on the date on which application for such title is made under section *four*; provided that the council may accept payment of such price in such instalments as it may think fit at any time within the said period of four years; provided further that interest at six per centum per annum shall be payable by the registered holder as from such date on any portion of such price for the time being unpaid. No price shall be payable to the council for the freehold title to any stand described in the second schedule hereto.

Price to be paid to council for freehold title and other moneys

(2) Before freehold title to any stand is transferred by the council the applicant therefor shall in addition to such price and interest pay to the council—

(a) all arrear stand licence moneys in respect of such stand;

(b) all charges due to the council for sanitary service as from the first day of January 1903 and all charges due to the council for the supply of water gas or electricity and for any other municipal service in respect of such stand and all rates due and unpaid thereon;

(c) the cost of transfer and diagrams.

6. Whenever there shall have been produced to the Registrar of Deeds by the town clerk an order signed by the civil magistrate declaring that the freehold title to any stand is forfeited as aforesaid such Registrar shall thereupon cancel the entries in his register and the Deeds Office copy of the deed of transfer under which such stand is held and thereupon such title shall be divested from the owner of such stand and become vested in the Council. The Registrar of Deeds shall further and forthwith transmit notice of such forfeiture to the Registrar of Mining Rights who shall make a note thereof in the special books kept under section *nine*.

Duties of Registrar of Deeds and Registrar of Mining Rights when freehold title declared forfeited.

7. Notwithstanding anything contained in the laws for the time being relating to transfer duty stamp duty registration of deeds or mining rights the transfer of freehold title by the council under this Act and the diagrams framed in connection therewith shall not be subject to any such duty or to registration charges.

Exemption from transfer duty stamp duty and registration charges.

8. No registration of transfer under this Act shall take place unless there be produced to the Registrar of Deeds a certificate signed by the town clerk showing that all charges for sanitary service and for the supply of water gas and electric

Restriction on registration of transfer until municipal rates and charges are paid.

\* Word in italics substituted by Act No. 34 of 1908, sec. 35 (1).

energy and for any other municipal service due to the council in respect of the stand together with all rates imposed thereon have been paid.

Special registers to be kept by Registrar of Mining Rights.

9. The Registrar of Mining Rights shall keep special books in which he shall record particulars which it shall be the duty of the Registrar of Deeds to supply to him of all titles granted under this Act and of any transfers of such titles.

Registered holder who fails to apply for freehold or to complete payments within period specified to forfeit all rights.

10. At the expiry of the said period of four years any registered holder who has failed to make application for freehold title to the stand registered in his name or having made such application has failed to complete the payments prescribed by section *five* shall *ipso facto* forfeit to the council all his right to and interest in such stand and shall forthwith quit the stand and remove therefrom all movable property belonging to him. No compensation shall be payable by the council to any such holder for improvements effected upon such stand; and such holder shall not be entitled to recover any moneys paid on account of such freehold title or right or interest save and except the moneys paid by him under section *five* on account of the price of such freehold title which shall be refunded to him without interest on application to the town clerk.

Council not to dispossess registered holder during said period.

11. The council shall not be entitled by virtue of anything contained in the resolutions or any grants made thereunder to deprive any registered holder of his right to or interest in any stand prior to the expiry of the said period of four years.

Power of Registrar of Mining Rights to pass transfer of stands not restricted.

12. Notwithstanding anything contained in the resolutions or any grants made thereunder it shall be lawful for the Registrar of Mining Rights prior to the grant of freehold title to a stand under this Act to pass transfer of such stand or portion thereof whether the persons to whom transfer is to be passed do or do not fall within the provisions of such resolutions or grants; and any such transfers passed before the taking effect of this Act to persons not falling within such provisions shall be deemed to have been lawfully passed; provided that such Registrar shall not pass any such transfer which is contrary to the provisions of section *fourteen*.

Restrictions on residence and occupation of Asiatics natives or coloured persons.

13. After the expiry of the said period of four years it shall not be lawful for any Asiatic native or coloured person (other than the bona fide servant of a white person for the time being residing on a stand) to reside on such stand or to occupy the same or any part thereof and any such Asiatic native or coloured person so residing or occupying may be ejected from such stand on action brought by the owner thereof or by the council. Every such action shall notwithstanding anything in the Magistrates' Courts Proclamation 1902 contained be brought in the court of the civil magistrate. Provided that nothing in this section contained shall in any way deprive such Asiatic native or coloured person of any right to compensation which he may have at law against such owner or the council or other person by reason of the exercise of the powers of this section.

14. It is hereby expressly enacted that every transfer of a stand or portion thereof and every agreement (whether oral or in writing) to transfer or sublet a stand or portion thereof to an Asiatic native or coloured person if such transfer or agreement be made after the fifth day of August 1907 shall be null and void.

Voidance of transfer and agreements in respect of stands after 5th August 1907.

\* 15. This Act may be cited for all purposes as the Vrededorp Stands Act 1907 and shall not take effect unless and until the Governor shall proclaim in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall take effect upon such date as the Governor shall fix by proclamation in the *Gazette*.

Title and date of taking effect.

#### FIRST SCHEDULE.

DESCRIPTION OF AREA OF LAND TRANSFERRED TO MUNICIPAL COUNCIL OF JOHANNESBURG UNDER SECTION *three* OF THIS ACT.

The area contained within a line starting from the intersection of the eastern boundary of Location Street and the northern boundary of First Street thence in an easterly direction along the northern boundary of First Street and First Street produced to its intersection with the south-western boundary of the township of Cottesloe thence in a south-easterly direction along the south-western boundary of the said township to its intersection with the western boundary of Milner Park thence in a southerly direction along the western boundary of the said Park to its south-west corner thence in a south-westerly direction to the north-western corner of the Braamfontein Cemetery thence in a southerly direction along the eastern boundary of Toll Street to the north-east corner of Toll and Smit Streets thence in a south-westerly direction to the north-western corner of Stand No. 5150 thence in a southerly direction along the western boundary of the said stand to its south-western corner being a point abutting on the northern boundary of the ground held by the Central South African Railway Administration thence in a westerly direction along the northern boundary of the said railway property to its north-western corner thence in a north-westerly direction to the south-western corner of Stand No. 1270 thence in a northerly direction along the eastern boundary of Kaffir Street to the north-east corner of Kaffir and Eleventh Streets thence in a westerly direction along the northern boundary of Eleventh Street to the north-east corner of Eleventh Street and Location Street thence in a northerly direction along the eastern boundary of Location Street to its intersection with the northern boundary of First Street being the point of beginning as more fully shown on the plan signed by Adam Jameson Commissioner of Lands and John William Quinn Mayor of Johannesburg dated the sixth and twelfth days of September 1906 and deposited at the office of the Surveyor-General.

#### SECOND SCHEDULE.

LIST OF STANDS IN VREDEDORP TOWNSHIP WHICH ARE REGISTERED IN THE NAMES OF CHURCHES.

Stand Numbers.	Registered Owner.
927, 928 .. ..	The Resident Minister of the Nederduitsch Hervormde Church.
929, 930 .. ..	The Resident Minister of the Wesleyan Church.
966 .. ..	Trustees of the Wesleyan Missionary Society of the British Wesleyan Methodist Conference.
1078, 1079, 1080 1094, 1095, 1096	De Nederduitsche Hervormde of Gereformeerde Kerk Gemeente Langlaagte and Fordsburg.

\* For Royal assent see Proc. (Admn.) No. 15 of 1908; put into operation from 8th February, 1908, by Proc. (Admn.) No. 16 of 1908.

Act No. 28 of 1907.] [Promulgated 26th August, 1907.]

AN ACT

TO AMEND THE PATENTS PROCLAMATION 1902 BY TRANSFERRING TO THE SUPREME COURT CERTAIN JURISDICTION POSSESSED THEREUNDER BY THE COMMISSIONER OF PATENTS.

(Assented to 19th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Section *fourteen* of the Patents Proclamation 1902 shall be and is hereby amended

(a) by the deletion from sub-section (3) thereof of all words after the word "based";

(b) by the addition of the following new sub-sections:—  
*For text see Proclamation No. 22, 1902, section fourteen*  
(4), (5), and (6).

2. Section *fifteen* of the said Proclamation shall be and is hereby repealed and there shall be substituted therefor the following provisions:—

*For text see Proclamation No. 22, 1902, section fifteen.*

3. This Act may be cited for all purposes as the Patents Proclamation Amendment Act 1907 shall be read as one with the Patents Proclamation 1902 or any amendment thereof and shall take effect on the date\* of its first publication as an Act in the *Gazette* and shall apply to any objections to the grant of a patent notice of which has been given to the Commissioner and which have not been determined by him prior to such date.

\* This date was the 26th August, 1907.

Amendment of section *fourteen* of Proclamation No. 22 of 1902.

Repeal of section *fifteen* of Proclamation (Transvaal) No. 22 of 1902 and substitution of new provision.

Title and date of taking effect.

Act No. 29 of 1907.] [Promulgated 26th August, 1907.]

AN ACT

TO AMEND THE LAW RELATING TO ADMINISTRATION OF JUSTICE AMONGST NATIVES AND THE JURISDICTION OF NATIVE COMMISSIONERS AND SUB-COMMISSIONERS.

(Assented to 19th August, 1907.)

WHEREAS it is expedient to amend Law No. 4 of 1885 and to make further provision for the better management of and administration of justice among the native population;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The laws mentioned in the schedule to this Act shall be and are hereby repealed to the extent set forth in the second column of such schedule.

Repeal of laws.

2. Every native commissioner and native sub-commissioner shall within his area of jurisdiction have in respect of offences committed by a native such summary jurisdiction as is conferred and imposed upon a court of resident magistrate by the Magistrates' Courts Proclamation 1902 or any amendment thereof and any conviction or sentence of a native commissioner or native sub-commissioner shall be subject to the same provisions relative to review and appeal as are by the said Proclamation or any amendment thereof provided in respect of the convictions and sentences of a court of resident magistrate.

Summary jurisdiction of native commissioners and sub-commissioners in respect of criminal offences by natives to be same as court of resident magistrate.

3. An appeal shall lie to the Supreme Court from any decision given by a native commissioner native sub-commissioner or native chief under the jurisdiction conferred by article *four* of Law No. 4 of 1885 and the provisions of the Magistrates' Courts Proclamation 1902 or any amendment thereof and any rules made thereunder relative to appeals from judgments of courts of resident magistrate in civil cases shall as far as possible be applied in the prosecution and hearing of any such appeal.

Appeal to Supreme Court from decisions in civil cases of native commissioners.

\* 4. This Act may be cited for all purposes as the Native Administration Amendment Act 1907 and shall not take effect unless and until the Governor shall have declared by proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall take effect on such date as the Governor may by like proclamation declare.

Title and date of taking effect.

\* For Royal assent and date of operation (1st February, 1908), see Proc. (Admn.) No. 9 of 1908.



*SCHEDULE.*

Laws Repealed.	Extent of Repeal.
Law No. 4 of 1885 .. ..	All words in article <i>four</i> after the words "civilized population" together with articles <i>six</i> and <i>seven</i> and the schedule to the law.
First Volksraad Resolution 25th August 1894.	Articles 1481 1488 1489.
Ordinance No. 3 of 1902 ..	Section <i>four</i> .
Ordinance No. 44 of 1902 ..	The whole.

Act No. 30 of 1907.] *11/19/07* Promulgated 26th August, 1907.

AN ACT

TO AMEND THE LAW RELATIVE TO THE EXPORT FROM THIS COLONY OF OSTRICHES AND OSTRICH EGGS.

(Assented to 20th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Section *thirteen* of the Game Preservation Ordinance 1905 shall be and is hereby repealed together with so much of paragraph (A) of sub-section (1) of section *four* of the said Ordinance as refers to regulations prescribing the manner of payment of export duty on ostriches and ostrich eggs payable under the said section *thirteen*.

Repeal of section *thirteen* of Ordinance No. 6 of 1905.

2. (1) On and after the date of the taking effect of this Act it shall not be lawful to export from this Colony save as in this section provided any ostrich or ostrich egg.

Prohibition of exportation of ostriches or ostrich eggs save to colonies or territories with reciprocal legislation.

† (2) Nothing in this section contained shall apply to the export of any ostrich or ostrich egg from this Colony to any colony or territory in South Africa in respect of which the Governor shall declare by proclamation in the *Gazette* that there is a law in force in such colony or territory prohibiting under penalties equal to the penalties hereinafter mentioned the exportation therefrom of ostriches or ostrich eggs except to a colony or territory in South Africa which is in like manner exempted from the prohibition contained in such law.

3. Any person who shall contravene the provisions of this Act shall be guilty of an offence and shall be liable on conviction to imprisonment with or without hard labour for a period not less than one year and not exceeding two years.

Penalties for contravention of Act.

4. Courts of resident magistrate shall have special jurisdiction to impose any penalty prescribed by this Act for a contravention thereof.

Special jurisdiction of courts of resident magistrate.

5. This Act may be cited for all purposes as the Ostriches Exportation Prohibition Act 1907 and shall take effect on such date as the Governor may by proclamation in the *Gazette* declare.\*

Title and date of taking effect.

† Prohibition not to apply to exportation to Cape Colony, Natal, Basutoland, Swaziland, and Bechuanaland [Proc. (Admn.) No. 99 of 1907], Mozambique [Proc. (Admn.) No. 10 of 1908], Southern Rhodesia [Proc. (Admn.) No. 20 of 1908], O.R.C. [Proc. (Admn.) No. 76 of 1908], German S.W. Africa [Proc. (Admn.) No. 75 of 1909].

\* The date declared was 1st October, 1907. See Proc. (Admn.) No. 81.

Act No. 31 of 1907.]

[Promulgated 26th August, 1907.]

## AN ACT

TO AMEND THE OCCUPATION FARMS ORDINANCE 1904 AND THE  
OCCUPATION FARMS AMENDMENT ORDINANCE 1905.

(Assented to 20th August, 1907.)

WHEREAS it is expedient to amend the law relating to Occupa-  
tion Farms;Be it enacted by the King's Most Excellent Majesty by  
and with the advice and consent of the Legislative Council  
and Legislative Assembly of the Transvaal as follows:—

1. In this Act

“Governor” shall mean the officer for the time being  
administering the government of this Colony acting  
by and with the advice of the Executive Council  
thereof;“principal law” shall mean the Occupation Farms  
Ordinance 1904.2. Section *four* of the principal law shall be and is hereby  
amended by the deletion therefrom of the words “owing to  
the unhealthiness of the locality” and of the words “for a  
portion of each year”.3. Section *six* of the principal law shall be and is hereby  
amended by the addition after the words “issued to such  
owner” of the words “or a certificate that the conditions of  
occupation have been suspended” and by the further addition  
after the word “unless” of the word “any”.4. Section *thirteen* of the principal law shall be and is  
hereby amended by the addition to the end of the said section  
of the following words:—“Provided that nothing in this section or any amend-  
ment thereof contained shall prevent the Governor  
from issuing freehold title to any holder of an  
occupation farm on such terms and conditions as he  
may deem fit.”5. Section *two* of the Occupation Farms Amendment  
Ordinance 1905 shall be and is hereby amended by the addition  
after the words “a farm under Law No. 8 of 1886” of the  
words “or an occupation lot or erf as in the Occupation Farms  
Ordinance 1904 defined”.6. Wherever in sections *six seven* and *thirteen* of the  
principal law the words “this Ordinance” occur the same  
shall be deemed to mean the principal law or any amend-  
ment thereof.7. This Act may be cited for all purposes as the Occupa-  
tion Farms Amendment Act 1907 and shall take effect from  
the date of its first publication as an Act in the *Gazette*.\*

\* This date was the 26th August, 1907.

Interpreta-  
tion of terms.Amendment  
of section *four*  
of Ordinance  
No. 25 of  
1904.Amendment  
of section *six*  
of Ordinance  
No. 25 of  
1904.Amendment  
of section  
*thirteen* of  
Ordinance  
No. 25 of  
1904.Amendment  
of section *two*  
of Ordinance  
No. 13 of  
1905.Meaning of  
certain  
reference in  
principal law.Title and date  
of taking  
effect.

Act No. 32 of 1907.]

[Promulgated 26th August, 1907.]

## \* AN ACT

TO CONFER FURTHER POWERS ON THE COUNCIL OF THE  
MUNICIPALITY OF PRETORIA.

(Assented to 20th August, 1907.)

WHEREAS it is desirable to amend the Pretoria Municipal Ordinance 1906 and to make further provision with regard to the borrowing powers of the Council of the Municipality of Pretoria;

And whereas the said Council is under and by virtue of the provisions of the said Ordinance authorized to raise for the purposes therein set forth by means of bills instead of by the creation and issue of stock such money as they think fit to the extent of Two Hundred Thousand Pounds (£200,000);

And whereas it is desirable to increase the amount that the said Council is so authorized to raise to Three Hundred Thousand Pounds (£300,000);

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Sub-section (a) of section *four* of the Pretoria Municipal Ordinance 1906 shall be and the same is hereby amended by the substitution for the words "Two Hundred Thousand Pounds" where they occur in the said sub-section of the words "Three Hundred Thousand Pounds."

Amendment of sub-section (a) of section *four* of Ordinance No. I (Private) of 1906.

2. It shall be lawful for the Council to defray out of its revenues any costs incurred in the promotion and passing of this Act.

Costs of Ordinance.

3. Nothing in this Act contained shall in any way affect the rights of His Majesty the King his Heirs and Successors or of any person except such as are mentioned in this Act and those claiming by from and under them.

Rights of the Crown.

4. This Act may be cited as the Pretoria Municipal Act 1907 and shall be read as one with the Pretoria Municipal Proclamation 1902 the Pretoria Municipal Proclamation Amendment Ordinance 1902 the Pretoria Municipality Extended Powers Ordinance 1904 and the Pretoria Municipal Ordinance 1906 and this Act and the said Proclamation and Ordinances may be cited together as the Pretoria Municipal Statutes 1902 to 1907.

Title.

\* See Act No. 12 of 1910.

Act No. 33 of 1907.]

[Promulgated 26th August, 1907.]

## \* AN ACT

TO AMEND THE PROVISIONS OF THE PROCLAMATION OF  
TOWNSHIPS ORDINANCE 1905.

(Assented to 20th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:

1. The Proclamation of Townships Ordinance 1905 shall be and is hereby repealed; provided that every application for permission to lay out a township made under the said Ordinance shall be considered and decided under its provisions as if such Ordinance had not been repealed.

2. In this Act unless inconsistent with the context "approved township" shall mean a township declared by notice in the *Gazette* under section seven to be an approved township;

"board" shall mean the townships board constituted under section three;

"freehold" shall include quitrent;

"Governor" shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council thereof;

"Minister" shall mean the Colonial Secretary or such other Minister to whom the Governor may from time to time assign the powers and duties by this Act conferred and imposed upon the Minister;

† "owner" shall mean

(a) in the case of a township established or proposed to be established under this Act the person registered in the Deeds Office as the owner of the freehold of the land included or to be included in such township at the date when application is made to establish the same;

(b) in the case of any other township the person registered in the Deeds Office as the owner of the freehold of the land included in such township at the date when the same was so divided as is in this section described in the definition of "township";

and in either such case shall include the legal representative heir or legatee of any such person;

\* See Act No. 34 of 1908, Act No. 30 of 1909, and Act No. 25 of 1909, sec. 12.

† See Act No. 34 of 1908, sec. 72.

Repeal of  
Ordinance  
No. 19 of  
1905.

Interpreta-  
tion of terms.

“ township ” shall mean any area of land which has been divided into lots exceeding fifteen in number arranged so as to be intersected or connected by or to abut on streets thoroughfares squares or open spaces within such area.

3. (1) A board shall be constituted to be styled the “ townships board ” which shall consist of the Surveyor-General (who shall be chairman) the Registrar of Deeds and such other public officer or officers as the Governor may appoint.

Constitution powers and duties of townships board.

(2) The board shall

- (a) enquire into any application made under section five for permission to establish a township;
- (b) recommend to the Minister whether any such application be granted or refused; and
- (c) if the grant of any such application be recommended further recommend the conditions upon which it be granted.

(3) The powers jurisdiction and privileges of the Commissions Powers Ordinance 1902 shall *mutatis mutandis* apply to the board.

4. No registration of the transfer of any lot in a township shall be effected in the Deeds Office unless and until such township has been declared an approved township and no township established or laid out after the date of the taking effect of this Act on land held under lease shall be recognized for any purpose whatsoever in the Deeds Office or other Registration Office.

Restrictions on sale or lease of lots in a township.

\*5. The owner of land who proposes to establish a township thereon shall make application† in writing in such form as the Minister may from time to time prescribe for permission so to do to the Minister who shall upon receipt thereof refer such application to the board; the board shall forthwith publish in three consecutive issues of the *Gazette* and in a newspaper (if any) circulating in the district where such land is situate a notice that such application has been made and after the expiry of a period of two months from the date of the first publication in the *Gazette* the board shall enquire into and consider such application and for such purpose shall require the owner to furnish to it such particulars and information and such plans and diagrams as it may deem fit.

Application for permission to establish township.

†6. The board upon receiving the particulars information plans and diagrams aforesaid shall recommend that the application be granted subject to such conditions as may be determined or shall recommend that the application be refused. The Minister upon consideration of the recommendations of the board may grant or refuse the application; provided that if he grant the application he may make such modifications of the conditions recommended by the board as he may think fit;

Consideration of application by board and Minister and grant or refusal of same.

\* See Act No. 34 of 1908, secs. 5, 6, and 7.

† For form of application see Govt. Notice No. 144 of 1908 (*Gazette*, 14/2/08).

‡ See, however, Act No. 34 of 1908, sec. 6.

provided further that the Minister shall not modify the conditions recommended by the board in favour of the owner or grant any application the refusal of which has been recommended by the board without further reference to the board.

§ 7. If an application be granted the owner shall cause a general plan and diagrams in accordance with the conditions prescribed by the Minister to be framed and submitted to the Surveyor-General. When such general plan has been approved by the Surveyor-General he shall notify such approval to the Minister who shall thereupon cause the township described on the general plan so approved to be declared by notice in the *Gazette* an approved township.

†8. (1) Whenever the transfer of fifteen lots in an approved township has been registered in the Deeds Office the owner shall furnish the Registrar of Deeds with diagrams in duplicate approved by the Surveyor-General of

- (a) such lands or lots as have been reserved for public purposes;
- (b) such lands as have been reserved as town lands;
- (c) such lands or lots as have been reserved for municipal purposes; and

the Registrar of Deeds upon application made by the owner shall transfer all such lands and lots to the Governor; provided that the lands and lots mentioned in sub-sections (b) and (c) of this section shall be held by the Governor in trust for any municipal council that may thereafter be constituted for such township and upon the constitution of such council shall be transferred thereto by the Governor.

(2) As long as such lands and lots are vested in the Governor in trust for a municipal council as aforesaid the Minister may direct the same or any portion thereof to be devoted to the use and benefit of the inhabitants of the township in such manner as he may think fit.

9. When a township has been declared an approved township the *dominium* in the streets squares and open spaces shown on the general plan mentioned in section *seven* shall *ipso facto* vest in the Governor and as soon as a municipal council is constituted for such township the *dominium* in such streets squares and open spaces shall *ipso facto* vest in such council; and upon any such vesting a note thereof shall be made in the register of the township kept in the Deeds Office.

10. The Registrar of Deeds shall not register the transfer or lease of any lot in an approved township after the registration of the transfer of fifteen lots as in section *eight* provided until the transfers to the Governor described in such section have been effected.

11. It shall be one of the conditions of the grant of any application to establish a township that the owner his heirs

§ The following were declared approved townships under this section:—Fairland, Devon, and Delmas by Govt. Notice No. 36 of 1909 (*Gazette*, 8/1/09), Meyerton by Govt. Notice No. 1143 of 1909 (*Gazette*, 8/10/09), Grasmere by Govt. Notice No. 1355 of 1909 (*Gazette*, 3/12/09).

† See Act No. 34 of 1908, secs. 5, 7, and 52.

successors or assigns shall not grant a title to any lot in such township other than a freehold title or a lease for a period not exceeding five years without the right of renewal and no title to any such lot other than a freehold title or such lease as aforesaid shall be capable of being registered in any Registration Office.

† \* 12. ~~Whenever there shall have been constituted under any law now or hereafter in force a local authority for any township (whether the same be an approved township or not) the Governor may by proclamation in the *Gazette* declare such township to be a proclaimed township; provided always that anything to the contrary in Law No. 4 of 1899 notwithstanding there shall be payable as erf tax in respect of any erven or portions thereof over and above ten erven which on the date when such tax is payable are registered in the name of the owner and on which no buildings have then been erected twenty-five per centum only of the amount payable by such law; provided further that the Governor may at any time withdraw any such proclamation either wholly or in part and on such withdrawal the erven or portions thereof in the part of the township affected by such withdrawal shall cease to be erven in or portions of erven in a proclaimed township for the purposes of such law.~~

Proclamation  
of townships.

For the purposes of this section a local authority shall mean a municipal council a health committee or any body of persons in which is vested by law powers and duties in respect of the health of the inhabitants of a particular township; and erven shall mean lots in a township as soon as such township is proclaimed under this section.

13. Notwithstanding anything in the law relating to transfer duty stamp duty deeds registration or survey no transfer duty stamp duty or registration fees shall be payable in respect of such transfers as are made to the Governor or to a municipal council in accordance with section *eight* and no stamp duty shall be payable in respect of the diagrams in such section mentioned.

Exemption  
from transfer  
duty stamp  
duty and  
registration  
fees of  
transfers to  
Governor or  
municipal  
council.

~~14. (1) Repealed by Act No. 34, 1908, section two (1).  
(2) Save as is otherwise provided in section *twelve* nothing in this Act contained shall apply to  
(a) any township surveyed prior to the date of the taking effect of the Proclamation of Townships Ordinance 1905;  
(b) any township established prior to such date all the lots of which have been transferred or leased prior to the date of the taking effect of this Act;  
(c) Repealed by Act No. 34, 1908, section two (1).~~

Saving as to  
certain  
townships.

15. This Act may be cited for all purposes as the Townships Act 1907 and shall take effect from the date of its first publication as an Act in the *Gazette*. ‡

Title and date  
of taking  
effect.

† The following were proclaimed townships:—Witbank by Proc. (Admn.) No. 88 of 1908, Alberton by Proc. (Admn.) No. 92 of 1908, Elsburg by Proc. (Admn.) No. 99 of 1908.

\* See Act No. 34 of 1908, sec. 2 (2), and Act No. 2 of 1909, sec. 2 (2).

‡ This date was the 26th August, 1907.



[Act No. 34 of 1907.]

[Promulgated 26th August, 1907.]

## AN ACT

TO PROVIDE FOR THE APPOINTMENT OF AND TO DETERMINE THE POWERS JURISDICTION AND DUTIES OF FIELD CORNETS.

(Assented to 20th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Law No. 2 of 1885 shall be and is hereby repealed together with so much of any other law as is repugnant to or inconsistent with the provisions of this Act.

2. In this Act

“Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council thereof;

“Minister” shall mean the Minister of Agriculture or such other Minister to whom the Governor may from time to time assign the carrying out of the powers and duties by this Act conferred and imposed on the Minister.

“ward” shall mean any one or more wards into which a magisterial district of this Colony is divided in accordance with section *three*.

\* 3. (1) The Governor may from time to time divide any magisterial district of this Colony into so many wards as he may deem expedient and the area of every such ward shall be as may be from time to time described by proclamation in the *Gazette*.

(2) The wards into which any magisterial district of this Colony has been divided by Proclamation No. 42 (Administration) 1904 or any amendment thereof shall be wards into which such magisterial district has been deemed to have been divided under sub-section (1) of this section.

4. (1) The Governor may from time to time appoint for any ward a fit and proper person to be field cornet thereof and every person so appointed shall within his ward have and exercise the powers jurisdiction and duties conferred and imposed by this Act or by any other law hereafter enacted.

(2) The Governor may from time to time suspend any person so appointed from his office for alleged incompetence or misconduct and upon sufficient proof to his satisfaction of incompetence or misconduct may remove him from such office; no person so removed shall be again appointed a field cornet.

\* For definition of boundaries and wards of districts see Proc. (Admn.) No. 50 of 1909.

Repeal of laws.

Interpretation of terms.

Division of magisterial districts of Colony into wards.

Appointment of field cornets.

(3) Subject to the provisions of the last preceding subsection every person appointed a field cornet under this section shall hold office for a period of three years and shall be eligible for reappointment to such office.

(4) Every appointment made under this section shall be notified by the Minister in the *Gazette* and in a newspaper (if any) circulating in the ward for which such appointment is made.

5. (1) A field cornet shall within his ward carry out such instructions for the preservation of the peace and good order thereof as he may from time to time receive from the resident magistrate of the district in which such ward is situate and shall render all assistance in his power in suppressing disorder or disturbance in such ward.

General powers and duties of field cornets.

(2) He shall as far as possible and subject to the provisions of any law in force for the time being assist in the settlement of private disputes arising between the inhabitants of his ward in order to prevent litigation.

6. A field cornet shall within his ward have the following powers jurisdiction and duties:—

Special powers and duties of field cornets.

(1) He shall have all the powers and duties conferred and imposed on a justice of the peace by the Criminal Procedure Code 1903 by section *twelve* of Ordinance No. 19 of 1904 or by section three of the Registration and Control of Dogs Act 1907 or by any amendment of such laws.

(2) *Repealed by Act No. 23, 1908, section one.*

(3) He shall be an assistant district registrar of births and deaths for the purposes of Ordinance No. 19 of 1906 and shall have all the powers and duties conferred and imposed on an assistant district registrar by the said Ordinance or any amendment thereof or by any regulation made thereunder.

(4) He shall have power to call upon any person who is carrying on any trade or occupation or following any pursuit or doing any act for which a licence or written permit is required by the Game Preservation Ordinance 1905 or any amendment thereof to produce such licence or permit and on the failure of such person to produce such licence or permit to take all lawful steps to enforce the provisions of such Ordinance or amendment thereof and if it shall appear to him that an offence has been committed by such person against such Ordinance or amendment thereof to bring the offender to justice.

(5) He shall assist in the administration and carrying out of the Diseases of Stock Ordinance 1902 the Cattle Diseases (East Coast Fever) Ordinance 1904 the Rabies Ordinance 1904 and any amendments of and of any regulations made under any such Ordinance. Such assistance shall be rendered in accordance with instructions from time to time given to him by the Minister of Agriculture.

(6) He shall be responsible for the carrying out of such instructions in connection with the maintenance and repair of public roads as may be given to him from time to time by the Minister of Public Works.

(7) He shall make known in manner prescribed by the Minister the provisions of all laws, proclamations or statutory regulations which affect the inhabitants of his ward.

(8) He shall generally assist in the administration of the law and exercise such other functions as the Governor may from time to time assign to him.

Field cornets not to act within municipalities.

7. No power, duty or jurisdiction by this Act conferred and imposed on a field cornet shall be exercisable by him within the area of any municipality.

Absence etc. of field cornet from his ward.

8. No field cornet shall be absent from his ward for a period exceeding fourteen days without having first obtained the consent of the Minister who shall if he consent to such absence appoint a fit and proper person to act in his place during the period of absence.

The provisions of Ordinance No. 37 of 1902 shall apply to field cornets.

Remuneration of field cornets.

9. A field cornet shall be paid out of moneys voted by Parliament such remuneration as may be fixed by the Governor.

Power to make regulations.

10. The Governor may from time to time make alter or rescind regulations for the better carrying out of the objects and purposes of this Act.

Title and date of taking effect.

11. This Act may be cited for all purposes as the Field Cornets Act 1907 and shall take effect from and after the first day of January 1908.

Act No. 36 of 1907.]

[Promulgated 26th August, 1907.]

## \* AN ACT

TO PROVIDE FOR AND REGULATE THE LIABILITY OF EMPLOYERS TO MAKE COMPENSATION FOR PERSONAL INJURIES TO WORKMEN AND TO PUNISH CERTAIN OFFENCES IN CONNECTION WITH SUCH INJURIES.

(Assented to 20th August, 1907.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

## PRELIMINARY.

1. In this Act unless inconsistent with the context
  - “dependants” shall mean such members of the workman's family specified in the schedule to this Act as are wholly or in part dependent upon the workman at the time of the injury which caused his death;
  - “district” shall mean a magisterial district of this Colony or any detached sub-district under an assistant resident magistrate and shall further include the district in which the civil magistrates at Johannesburg exercise jurisdiction under section *fifty-four* of the Magistrates' Courts Proclamation 1902;
  - “employer” shall mean any person or any body of persons corporate or unincorporate hiring or contracting before or after the date of the taking effect of this Act with any workman (as in this section defined) for the performance of any work (as in this section defined) and the term “employer” shall include his representative (as in this section defined);
  - “magistrate” shall mean the resident magistrate of any district and in the case of a detached sub-district the assistant resident magistrate thereof; provided that within the district described in section *fifty-four* of the Magistrates' Courts Proclamation 1902 the term “magistrate” shall mean one of the civil magistrates therein mentioned and not the Chief Magistrate of the Witwatersrand district;
  - “medical practitioner” shall mean any person duly registered as such under any law of this Colony relating to the registration of medical practitioners;
  - “principal” shall mean any person whose trade business or public function it is or who has entered into a contract wholly or in part to do perform or undertake work (as in this section defined) and who employs a contractor to do it for him wholly or in part and

Interpreta-  
tion of terms

\* See Act No. 11 of 1910.

whether such contractor employs a sub-contractor or not and the term "principal" shall include his representative (as in this section defined);

"representative" shall mean in the case of a deceased principal employer or workman his executor or failing the appointment of an executor any *curator bonis* lawfully appointed for the taking charge of the deceased's estate: and in the case of insolvency of a principal or employer shall mean the trustee of his insolvent estate and if the principal or employer is a limited liability company placed in liquidation shall mean the liquidator of such company: and in the case of a minor shall mean the guardian of such minor and in the case of a lunatic shall mean any person lawfully appointed *curator bonis* of such lunatic;

"section" shall mean a section of this Act;

"serious and wilful misconduct" shall include

- (a) drunkenness;
- (b) a wilful contravention of any law or statutory regulation made for the purpose of ensuring the safety of or preventing accidents to workmen;
- (c) any other act or omission which a court of law having regard to all the circumstances of an accident causing injury may declare to be serious and wilful misconduct;

"wages" shall mean the average weekly earnings of the workman at the time of the injury:

if the wages are paid at the time of the injury at a rate per hour the average weekly earnings shall be taken as forty-eight times the rate per hour;

if the wages are so paid at a rate per day the average weekly earnings shall be taken as six times the rate per day;

if the wages are so paid at a rate per week the average weekly earnings shall be taken as that rate;

if the wages are so paid at a rate per month the average weekly earnings shall be taken as one-fifty-second of twelve times the rate per month;

if the wages are so paid at a rate calculated on work done the average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated; provided that where by reason of the shortness of time during which the workman has been at work for the employer it is impracticable at the date of the injury to compute the rate of remuneration regard may be had to the average weekly amount which during the six months immediately previous to the injury was being earned by a person employed at similar work on the same terms of remuneration;

and the average weekly earnings shall for the purpose of calculating wages mean the net sums paid to a workman by an employer after deduction of the value of any labour or material supplied by the employer and of overtime payments and of any sums usually paid by the employer to the workman to cover any special expenses entailed on him by the nature of his work;

“work” shall mean employment at or about any trade industry business or public undertaking in this Colony including employment in agriculture but shall not include domestic service; and “employment in agriculture” shall mean the employment of a workman in agriculture by an employer who habitually and regularly has in his employ one or more workmen not being members of his family engaged in agriculture; and “agriculture” shall mean any work connected with or incidental to the tilling of the soil stock rearing or farming operations;

“workman” shall mean any white person engaged by an employer to perform work under agreement of service or of apprenticeship or otherwise whether such agreement be expressed or implied be oral or in writing and whether payment be made by time or calculated on work done; provided that the term “workman” shall not include

- (a) a person whose wages in respect of his work exceed five hundred pounds a year; or
- (b) a person whose work is of a casual nature and who is employed to do work for an employer other than in such employer's trade business or industry; or
- (c) an outworker; that is to say:—a person to whom articles or materials are given out by an employer to be made up cleaned washed altered ornamented finished or repaired or adapted for sale on premises not under the control and management of the employer; or
- (d) a person who contracts or sub-contracts for the carrying out of work and himself engages other persons (white or coloured) independently of his employer to perform such work.

Any reference to a workman who has been injured shall where the workman is dead or is a minor or has become a lunatic include a reference to his representative or to his dependants as the context may require.

2. No compensation shall be payable under this Act in respect of an injury to a workman which did not arise out of and in the course of his work or in respect of an injury which was due to the workman's own serious and wilful misconduct.

Circumstances precluding compensation under this Act.

PROVISIONAL ORDER TO RECOVER PERIODICAL PAYMENTS  
OF COMPENSATION.

Compensation  
for injury by  
way of  
periodical  
payment.

3. Save as in section *two* is provided if personal injury is caused by any accident to a workman necessitating his absence from work for a longer period than one week the employer and every principal shall be liable to pay to such workman compensation as in section *seven* is provided.

Notice of  
injury by  
workman to  
employer or  
principal.

4. (1) Any such workman who is desirous of obtaining compensation under this Act shall give or cause to be given notice of such injury at his option either to his employer or to any principal. Such notice shall be given within fourteen days of the injury and if not given within such period no compensation shall be payable under this Act to a workman unless he shall have obtained from the magistrate of the district in which he received the injury a certificate that the time for giving notice should having regard to all the circumstances have been extended. If he shall have obtained such certificate and given notice to the employer or such principal within a period of one week after the receipt of such certificate the notice of injury shall be deemed to have been given within the time required by this sub-section.

(2) The employer or the principal to whom notice has been given may on receiving such notice require the workman to submit himself for examination by a medical practitioner named by the employer or such principal.

(3) If the employer or such principal shall not within one week after transmission to him of such notice agree with the workman for payment of compensation for the injury the workman may transmit to the clerk of the court of resident magistrate for the district in which such injury was received notice in writing of such injury, and of the name of the employer or such principal and with such notice shall transmit a certificate by a medical practitioner to the effect that in his opinion the injury necessitates or has necessitated the workman's absence from work for a longer period than one week. Such clerk shall cause such information and certificate to be at once laid before the magistrate of the said district.

Magistrate  
to hold  
enquiry.

5. Such magistrate shall thereupon hold an enquiry on oath into the circumstances of the accident and shall record the evidence taken by him. Notice of the date and place at which such enquiry will be held shall be given by the magistrate to the employer or to such principal (as the case may be) by delivering the same at or sending it by registered letter addressed to the residence or place of business or office of the employer or such principal but the enquiry shall not be invalidated or postponed by reason of such notice not having been received by the employer or such principal on or before such date or by reason of his not being present or represented at the enquiry or by reason of any defect or inaccuracy in such notice not calculated to prejudice the employer or such principal in his defence.

6. For the purposes of such enquiry the magistrate holding the same shall have all and singular the powers vested by law in a resident magistrate holding an inquest upon the body of a deceased person and the law appertaining to witnesses and their evidence in cases of such inquests shall *mutatis mutandis* apply to witnesses and to their evidence in any such enquiry; provided always that if the injured workman is at the time of the enquiry in some district other than that of the magistrate aforesaid or is unable to attend such enquiry the magistrate may appoint the assistant resident magistrate or the magistrate's clerk in his office or any other magistrate or assistant resident magistrate to take the evidence on oath of such injured workman (if necessary) and shall give the employer or such principal (as the case may be) notice of the time and place of the taking of such evidence.

Law relating to inquests applied to enquiries by magistrates under this Act.

7. (1) If the magistrate shall satisfy himself from the evidence taken at the said enquiry that the injury is one in respect of which compensation is payable under this Act he shall make a provisional order for the payment to the workman by the employer or such principal of periodical amounts at the rate of fifty per centum of the wages which the workman was receiving at the time of the injury; the order shall be for payment of such amounts from the date of the injury until the workman is sufficiently recovered therefrom to resume his work. Any such order shall be subject to the provisions of sections *twenty-four* and *twenty-five*. Payment of such amounts shall be made at such times or at such intervals as payment of wages was habitually made to the workman at the time of the injury.

Provisional order by magistrate.

(2) A memorandum of any agreement made between any workman and his employer or a principal as to the payment of periodical amounts for the payment of which a workman might claim a provisional order under this section if proceedings were taken under sub-section (3) of section *four* may be registered by the magistrate in whose court such proceedings might have been taken subject to regulations made under section *thirty-five* and upon such registration the terms of such agreement shall for all purposes of this Act be deemed to be and have the force and effect of a provisional order granted under this section.

8. If the magistrate shall refuse to make a provisional order in favour of an injured workman on the ground (which shall appear on the records) that the injury was due to his own serious and wilful misconduct the workman may appeal to the Supreme Court from any such refusal on such ground only.

Appeal to Supreme Court by workman against refusal to make provisional order.

9. If on the hearing of such appeal the Supreme Court shall be of opinion that the workman is entitled to a provisional order in terms of section *seven* such court may direct the magistrate to make a provisional order and may from time to time give such further directions in relation thereto as it may think fit.

Supreme Court may direct magistrate to grant provisional order.



Procedure if injury prove more serious than supposed.

10. If the magistrate shall have refused to make a provisional order on the ground that the injury would not necessitate or has not necessitated the workman's absence from work for a period longer than one week and it shall happen thereafter that the injury was more serious than was supposed and has prevented the workman from resuming work for a period longer than one week such workman may give or cause to be given notice to the employer or such principal aforesaid of such fact and the provisions of sections *four* to *seven* inclusive shall apply *mutatis mutandis* as if notice of such fact were a notice of injury given under sub-section (1) of section *four* to the employer or such principal.

Effect of provisional order.

11. Every such provisional order shall (unless and until it is set aside or varied in the manner hereinafter provided and if varied then to the extent of the order as varied) have for a period not exceeding six months from the date of the injury the full force and effect of an order made by a court of resident magistrate for periodical payments of money; provided that if such workman shall within such period resume work or die or leave the Colony without the written consent of the employer or such principal (as the case may be) or obtain judgment in his favour in any such action as is mentioned in section *seventeen* the provisional order shall lapse; provided further that no such order shall be subject to appeal to any superior court unless the serious and wilful misconduct of the workman has been alleged and the magistrate has given a finding on such question in which case an appeal shall lie to the Supreme Court on such question only.

Application to set aside provisional order.

12. The employer or such principal aforesaid may set down with the clerk of the court of the magistrate who granted the provisional order an application to set aside or vary the same and subject to the provisions of sub-section (2) of section *thirteen* such application may be set down at any time during the period that the order is in force; provided always that he shall give to the workman forty-eight hours' notice of his intention to make such application stating the day for which it is set down and the ground or grounds upon which it is being made.

Grounds on which a provisional order may be set aside or varied.

13. The grounds on which a provisional order may be set aside or varied shall be one or more of the following:—

(1) That the workman has sufficiently recovered to resume work or has wilfully done an act calculated to retard his recovery and has in consequence retarded his recovery or that when the employer or such principal has desired to ascertain any such fact the workman has refused to allow himself to be examined by a medical practitioner nominated by the employer or such principal.

(2) That the employer or such principal did not receive the notice of injury aforesaid in time to be present or represented at the said enquiry and proves that the injury did not arise out of and in the course of the workman's work or that it was caused by the workman's own serious

and wilful misconduct; provided always that an application to set aside or vary a provisional order on any ground in this sub-section mentioned shall not be entertained unless the same be set down within a week after the provisional order has been served upon the employer or such principal as the case may be.

14. At and upon the hearing of the application to set aside the provisional order the applicant or the workman or the court may produce or call such further evidence or recall such witnesses at the original enquiry as may be deemed necessary and such evidence shall be recorded by the magistrate with and in addition to the evidence taken at the original enquiry.

Evidence upon application to set aside provisional order.

15. If on any such application the applicant shall rely upon the ground that the workman is sufficiently recovered to resume work the magistrate may require the workman to be further examined by a medical practitioner appointed by the magistrate and may further require any such medical practitioner to give evidence on such application and the cost of such further examination and evidence shall be borne by the unsuccessful party on such application.

Further examination by and evidence of medical practitioner etc.

16. Upon hearing the parties on such application the magistrate may confirm or set aside or vary the provisional order and if he confirms or varies it then for such period or from such date as to him may seem fit subject to the provisions of section *eleven*; and the confirmation or setting aside or variation of such order shall be deemed to be a final civil judgment of the court of resident magistrate of the district; provided that no appeal shall lie therefrom to a superior court except where the workman's serious and wilful misconduct has been alleged as a ground for setting aside the provisional order and the magistrate has given a finding thereon in which case an appeal shall lie to the Supreme Court on such ground only and at the instance of the workman or of the employer or principal as the case may be.

Final judgment upon application to set aside provisional order.

#### RIGHT OF ACTION FOR PERMANENT INJURY OR INJURY CAUSING DEATH.

17. If any workman become permanently incapacitated by reason of a personal injury arising out of and in the course of his work caused by any accident he shall in addition to the right to obtain a provisional order as aforesaid and subject to the provisions of section *four* relative to notice to the employer or principal of the injury have a right of action against the employer or such principal in the court of resident magistrate of the district in which he received such injury. The amount recoverable in such action shall be

Right of action for permanent injury total or partial and amounts recoverable respectively.

(a) in case of total incapacitation for work an amount equal to three years' wages at the rate of wages earned by him at the time of the injury less any sums received under such provisional order aforesaid or seven hundred and fifty pounds less any sums so received whichever amount shall be the less;

(b) in case of partial incapacitation for work (which shall mean inability owing to the injury to resume work similar to that at which he was employed at the time of the injury or for which he was previous to the injury fitted by trade or apprenticeship) an amount equal to the probable deficiency in his income for the next three years consequent on his diminished capacity to earn wages at the same rate as he was earning at the time of the injury less any sums received under such provisional order aforesaid or three hundred and seventy-five pounds less any sums so received whichever amount shall be the less; provided always that wherever the workman was at the date of the accident under twenty-one years of age the Magistrate may—

- (i) in the case of a claim under paragraph (a) where the gross amount recoverable is under three hundred pounds sterling increase the gross amount recoverable to a sum not exceeding three hundred pounds sterling;
- (ii) in the case of a claim under paragraph (b) where the gross amount recoverable is under one hundred and fifty pounds sterling increase the gross amount recoverable to a sum not exceeding one hundred and fifty pounds sterling;

if having regard to what would but for the accident have been the probable increase in the workman's earning capacity during the three years immediately succeeding the date of the accident such increase should appear reasonable and may give judgment on the basis of such increased amounts.

Any such action and the amounts recoverable thereon shall be subject to the provisions of sections *twenty-four* and *twenty-five*.

Postponement of case for purpose of obtaining further evidence as to permanency of injury.

18. The Court hearing any such action may if the employer's or such principal's liability to pay compensation under this Act be proved postpone giving judgment for a period or periods not exceeding six months in all in order to obtain more certain evidence of the workman's permanent incapacity for work and whether the same be total or partial; provided that the court may order in anticipation of judgment advances to be made to such workman by the employer or such principal not exceeding in all the probable minimum amount recoverable under paragraph (b) of the last preceding section.

Death from injury—right of action of dependants.

19. If any workman who has neither obtained judgment on an action under section *seventeen* nor otherwise received compensation in satisfaction of his right of action under the said section shall die from personal injury received and the employer or a principal would be liable under this Act but for such death to pay him compensation for such injury the dependants of the workman shall have a right of action in respect of such injury against the employer or such principal in the court of resident magistrate of the district in

which the injury was received. The amount recoverable in such action shall be a sum equal to two years' wages of the workman at the time of his death or five hundred pounds whichever sum shall be the less; and such sum shall be subject to deduction of any advances made to the workman under the last preceding section but shall not be subject to deduction of any payments made to such workman under any such provisional order aforesaid if such payments did not continue for a period longer than three months and if such payments did so continue shall be subject to the deduction only of the amount of such payments made after the first three months during which such payments continued. Any such action and the amount recoverable thereon shall be subject to the provisions of sections *twenty-four* and *twenty-five*.

20. No action for compensation under sections *seventeen* or *nineteen* shall be maintained unless such action shall have been commenced within six months from the date of the injury or in the case of death resulting therefrom within six months from the date of such death or if the employer or principal (as the case may be) shall in either such case have admitted his liability to pay compensation then within six months from the date of such admission; no appeal shall lie from any decision of the court of resident magistrate on such action unless in such action the workman's own serious and wilful misconduct has been alleged and such court has given a finding thereon; in such case an appeal shall lie to the Supreme Court on such finding only at the instance of the workman or of the employer or principal as the case may be.

Limitation of action and of right of appeal.

21. The representative of the deceased workman shall be the person to sue in any action mentioned in section *nineteen*. Such representative after deducting an amount not exceeding forty-five pounds to pay the medical attendance upon such workman during his last illness and the expenses of his burial shall forthwith either pay the remainder of any sum recovered from the employer or a principal (whether by action or otherwise) into the court of the resident magistrate of the district in which the injury was received or pay the remainder of such sum to any dependants who are entitled thereto in the order of preference set forth in the schedule to this Act. Such remainder shall be divided amongst the dependants so entitled in such proportions as may by agreement amongst them be determined; provided that the said court may in the absence of such agreement determine the amount payable to any such dependants and may further determine whether a person claiming to be entitled under this Act to any amount as a dependant is or is not so entitled *\*provided further that if one of such dependants is a minor the said court shall determine the amount payable to the minor, and the resident magistrate shall pay such amount into the hands of the Master of the Supreme Court.*

Deceased's representative to sue.

\* Words in italics added by Act No. 11 of 1910, sec. 5.

Sum payable to dependant free from attachment for debt and not to be subject to administration of deceased's estate.

22. No sum payable to any dependant under this Act shall be liable to attachment for any debt due by the deceased workman nor shall the amount of any compensation recovered or recoverable on behalf of a dependant form part of the deceased workman's estate for the purposes of any law for the time being relating to the administration of or the duty on estates of deceased persons *† provided that the representative of the deceased workman shall transmit to the Master of the Supreme Court within a reasonable time a statement supported by vouchers and acquittances showing—*

- (a) *the amount recovered under this Act from the employer or principal;*
- (b) *the amount deducted and paid for medical attendance and the expenses of the burial;*
- (c) *the amount awarded to any dependant.*

Medical and burial expenses.

23. If the injured workman shall die from the injury and leave no dependant the employer or any principal shall be liable to pay the reasonable expenses of the medical attendance upon such workman during his last illness and of his burial not exceeding the sum of sixty pounds in all.

#### EFFECT OF MEMBERSHIP OF BENEFIT SOCIETIES ON RECOVERY OF COMPENSATION UNDER THIS ACT.

Deduction from amount of compensation of sum representing employer's contributions to benefit societies.

24. If in any proceedings under this Act for the recovery of compensation by or on behalf of a workman or his dependants it shall appear

- (1) that the injured or deceased workman is or was a member of a benefit society sick fund organisation or club (hereinafter described as a "society"); and
- (2) that there has been or is to be paid by the society to the workman or his dependants an allowance or gratuity in respect of any illness absence from work incapacitation for work or death; and
- (3) that the employer or principal is a contributor to those funds of the society out of which such allowance or gratuity has been or is to be paid;

there shall be deducted from any amount which the employer or principal would have been adjudged liable under this Act to pay to the workman or his dependants a sum which represents the share of the employer's or such principal's contribution towards the sum paid or to be paid to the workman or his dependants from the society in the circumstances aforesaid.

If employer's contribution to society is in excess of sum payable as compensation proceedings lapse.

25. If in the circumstances described in the last preceding section it shall appear that the sum which represents the share of the employer's or such principal's contribution towards any sum paid or to be paid by any society to an injured workman or to his dependants is in excess of the amount which under this Act the employer or such principal might have been adjudged liable to pay to such workman or his dependants no order shall be made or judgment given on any such proceedings which shall forthwith lapse and determine.

*†* Words in italics added by Act No. 11 of 1910, sec. 6.

## GENERAL.

26. The costs of any proceedings under this Act before a magistrate or court of resident magistrate shall be in the discretion of such magistrate or court; provided that whenever any proceedings by a workman or defence thereto by an employer or principal appear to be frivolous and vexatious a magistrate or court of resident magistrate shall award double costs to the successful party. All costs (including the costs of obtaining any medical certificate) awarded by a magistrate or court of resident magistrate in any proceedings under this Act shall be taxed and recoverable in the manner prescribed by law for the time being regulating the procedure in courts of resident magistrate. Costs.

27. Every appeal to the Supreme Court from a decision order or judgment of a magistrate or court of resident magistrate under this Act shall be prosecuted in manner prescribed by law for the time being regulating appeals to the Supreme Court from a judgment or order of a court of resident magistrate. Appeals.

28. Whenever a principal who has not hired or employed a workman pays compensation under this Act to such workman or his dependants entitled thereto he shall have the right to be indemnified to the extent of the amount due and paid (together with the taxed costs of any proceedings by which the amount became payable) by the employer or any other principal standing between him and the workman and shall have a right of action to recover such amount and costs aforesaid in the court of resident magistrate of the district in which the employer or such other principal resides or carries on business; provided always that no such right as is by this section conferred shall be exercisable by a principal unless he shall have given to the employer or other principal aforesaid (as the case may be) notice of the claim or proceeding. Principal's right of indemnity if he pays compensation.

29. When an employer or principal is adjudged liable or admits liability under this Act to pay compensation and is entitled to any sum from any insurer in respect of such liability then in the event of the estate of the employer or such principal being sequestrated or of the employer or such principal making a composition or arrangement with his creditors or if the employer or such principal being a company be placed in liquidation the workman or the dependants entitled under this Act to compensation shall have a first charge upon such sum for the amount due and if any of such events happen while any proceeding is pending to recover compensation under this Act the magistrate or court having jurisdiction shall interdict the parting with any such sum by such insurer pending the result of such proceeding. Insolvency of employer.

30. The employer or principal shall be bound in any proceeding against him under this Act to recover compensation to disclose whether he has insured against personal injury to the workmen employed by him or on his behalf and if so insured the name and address of the person company or association with whom the insurance has been effected. Employer to disclose whether he is insured against injury to workmen.

Contracting out prohibited.

31. Any provision in a contract existing at the date of the taking effect of this Act or hereafter entered into whereby a workman relinquishes any right to compensation under this Act or to damages at common law whether for himself or for his dependants shall be null and void.

Saving of common law right of action of workman if he elect to proceed at common law.

32. (1) Nothing in this Act contained shall be deemed to deprive a workman of any right which he may have at common law to institute proceedings for damages from his employer or any other person in respect of a personal injury.

(2) The workman shall elect whether he will institute proceedings at common law for damages against his employer or a principal in respect of a personal injury or will institute proceedings for compensation under this Act and if he institute such proceedings at common law he shall be debarred from instituting proceedings under this Act in respect of the same injury; or if he institute proceedings under this Act he shall be debarred from instituting proceedings at common law against his employer or a principal in respect of the same injury. Any notice of injury given to the clerk of a court of resident magistrate under sub-section (3) of section *four* or the taking out of summons in such court shall be deemed to be an institution of proceedings under this Act.

(3) If compensation under this Act has been paid by the employer or a principal and the circumstances of the injury disclose a legal liability on the part of another person to pay damages at common law in respect thereof such other person shall be liable to pay to the employer or such principal the amount of compensation so paid and the taxed costs of any proceedings on which such amount became payable.

(4) A workman shall not be entitled in any case to recover both damages in an action at common law and compensation under this Act in respect of the same injury.

Application of Act to Crown.

\* 33. This Act shall not apply to military service under the Crown but otherwise shall apply to any other work at which a person is employed by or under the Crown; provided that where by any law of this Colony provision is made for the grant of a pension or gratuity to any member of a police force or of the public service in the case of injuries received by him in the discharge of his duties or to any person who in the event of the death from such injuries of such member would be entitled as a dependant to compensation under this Act such member or person so entitled shall have the right to elect whether he will claim a pension or gratuity under such law or compensation under this Act but shall not be entitled to claim both such pension or gratuity and such compensation.

Stamps on insurance policies.

34. Notwithstanding anything to the contrary contained in any law in force relating to stamp duty every policy of insurance of workmen and every renewal of such policy entered into after the taking effect of this Act shall be liable to a duty of threepence only denoted by revenue stamps when the annual premium does not exceed one pound and to a duty of one shilling only denoted in like manner when the annual premium

\* See Act No. 20 of 1908, sec. 77.

exceeds one pound; save as aforesaid the laws of the Colony for the time being in force relating to stamp duties shall apply to every such policy of insurance.

† 35. The Governor in Council may from time to time make alter or rescind regulations not inconsistent with the provisions of this Act

Power of Governor in Council to make regulations.

(1) prescribing the manner in and the conditions upon which any such memorandum of agreement as is in subsection (2) of section *seven* described shall be registered and the procedure to be followed on any application for such registration and the grounds on which any such application may be refused;

(2) generally for the better carrying out of the objects and purposes of this Act.

All such regulations shall within seven days after the promulgation thereof be laid on the tables of both Houses of Parliament if Parliament be then in session or if Parliament be not then in session within seven days after the commencement of the next ensuing session.

#### PENAL PROVISIONS.

36. If any person threatens or compels or attempts to compel any workman to do or omit to do any act the doing or omission of which deprives or is calculated to deprive such workman of any claim to compensation which he would have under this Act such person shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Threats and compulsion.

37. In any proceedings for a contravention of the last preceding section by a limited liability company the secretary and every manager or director of such company who is in control of the business thereof in this Colony shall be liable to the penalties prescribed for any such contravention and in the event of any such contravention by a partnership every member of such partnership shall be liable to such penalties aforesaid; provided always that nothing in this section contained shall be deemed to exempt from liability any other person guilty of any such contravention.

Liability to penalties in case of contravention of section *thirty-six* by companies and partnerships.

#### COMMENCEMENT OF ACT.

‡ 38. This Act may be cited for all purposes as the Workmen's Compensation Act 1907 and shall not take effect unless and until the Governor shall proclaim in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall take effect on such date not being earlier than the first day of January 1908 as the Governor may by like proclamation declare.

Title and date of taking effect.

† For regulations see Govt. Notice No. 264 of 1908 (*Gazette*, 13/3/08).

‡ For Royal assent and date of operation (1st April, 1908), see Proc. (Admn.) No. 5 of 1908.



SCHEDULE.

Order of preference in which dependants shall have a right to be paid compensation under this Act :—

- (1) A husband or wife and any son or daughter (legitimate or illegitimate) or step-son or step-daughter of the deceased workman ; failing whom
- (2) A father mother step-father step-mother of the deceased workman ; failing whom
- (3) A brother sister half-brother half-sister of the deceased workman and any children of such persons ; failing whom
- (4) A grandfather grandmother grandson granddaughter of the deceased workman (whether the grandson or granddaughter be of legitimate or illegitimate birth) ; failing whom
- (5) Any other relative of the deceased workman by consanguinity or affinity.

Act No. 37 of 1907.]

[Promulgated 26th August, 1907.]

## \* AN ACT

~~TO~~ AMEND THE LAW RELATING TO LAND SETTLEMENT.

Assented to 20th August, 1907.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

## PART I.

1. In this Act unless inconsistent with the context:
- “this Act” shall include any regulations made thereunder or under the Settlers Ordinance 1902;
  - “advance” shall mean any money breeding stock farming requisites materials or other articles supplied to any settler under the Settlers Ordinance or this Act;
  - “allot” in its various moods tenses and parts shall mean sell under licence or lease with or without option of purchase under the provisions of the Settlers Ordinance the Crown Land Ordinance or this Act;
  - “Board” shall mean the Transvaal Land Settlement Board constituted under section *fifty-two* of the Letters Patent;
  - “breeding stock” or “stock” shall include horses donkeys cattle sheep goats pigs ostriches and poultry;
  - “Crown Land Ordinance” shall mean the Crown Land Disposal Ordinance 1903 or any amendment thereof;
  - “farming requisites” shall include draught animals carts wagons farming implements machinery farm seeds and other supplies approved by the Board or its predecessors or successors in title;
  - “Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council thereof; and “Government” shall mean the Governor;
  - “holding” shall mean any land that has been or may be allotted to any person;
  - “law” shall mean and include the Letters Patent the Common Law and any Proclamation Ordinance or enactment referred to in the Interpretation of Laws Proclamation 1902;
  - “Letters Patent” shall mean the Transvaal Constitution Letters Patent 1906;

Interpretation of terms.

\* Transvaal Land Settlement Board constituted by Proc. (Admn.) No. 24 of 1907; see also Act No. 26 of 1909, sec. 8 (1) (as to expenses for fencing).

- “minerals” shall mean and include all minerals mineral products and precious stones;
- “Minister” shall mean the Minister of Lands or any person from time to time lawfully exercising the powers rights and duties of such Minister;
- “permanent improvements” shall mean and include reclamation from swamps clearing of bush or scrub cultivation or planting with trees or live hedges fencing draining or making roads dams or tanks sinking wells constructing water furrows dipping tanks embankments or protecting works of any kind or in any way improving the character carrying capacity or fertility of the soil or the erection of any building or such other works as may be approved by the Board or its predecessors or successors in title;
- “settler” shall mean any person from time to time in occupation of land transferred or to be transferred to or acquired by the Board under the Letters Patent or this Act and in the event of any holding becoming vacant the person lately in occupation thereof;
- “Settlers Ordinance” shall mean the Settlers Ordinance 1902 or any amendment thereof.

Allotment or transfer of lands.

2. Anything to the contrary in any law contained notwithstanding all lands that may be named in a schedule or schedules to be signed in duplicate by the Minister and the Chairman of the Board or in his absence by the person for the time being lawfully acting in such capacity shall be deemed to have been duly allotted and to be lawfully held by the persons named in such schedule or schedules and the said lands which are hereinafter referred to as the scheduled lands together with any lands that may be acquired by the Board under section *seventeen* of this Act shall for all purposes be deemed to be lands transferred to the Board and the persons from time to time in occupation thereof to be persons in occupation of such lands within the meaning of section *fifty-two* of the Letters Patent; and the Board may exercise in respect of all such lands and of such persons all the rights duties and obligations conferred and imposed upon it by the said section *fifty-two*.

Transfer of movable property.

3. All movable property vested in the Governor and used in connection with the scheduled lands and all rights and obligations acquired or incurred by the Governor against or towards the persons in occupation thereof and any other movable property rights and obligations that the Board and the Minister may agree in writing shall be transferred to the Board shall notwithstanding the fact that the same may not be covered by the words of section *fifty-two* of the Letters Patent be deemed to be movable property rights and obligations within the meaning of sub-section (2) (b) of such section.

Vesting of scheduled lands in the Board.

4. The scheduled lands shall be deemed to have been transferred to and vested in the Board as from the first day of May 1907; provided always that the said lands and any lands acquired by the Board under the provisions of section

*seventeen* of this Act shall upon the determination of the existence of the Board *ipso facto* revert or vest as the case may be in the Governor and the Registrar of Deeds shall make such alteration in his registers as may be necessary to record any such transfer revesting or vesting or any revesting under the provisions of this Act.

5. Every debt present and future owing to the Board by any settler from time to time holding land under the Settlers Ordinance or this Act shall be a first charge upon the holding of such settler and upon all movable property thereon in the same manner as if such debt were a debt owing to the Government within the meaning of sub-section (2) of section *twenty-seven* of the Settlers Ordinance.

Debts of settler to be first charge on holding.

## PART II.

6. Anything in the law contained to the contrary notwithstanding

Powers of Board as to settler and holding.

(1) the Board may grant the application of any settler to convert his lease into a licence notwithstanding the fact that the notice prescribed in section *fifteen* of the Settlers Ordinance has not been given and that all the conditions of the lease have not been complied with at the time when such application was made;

(2) upon the application of any lessee under the Settlers Ordinance the Board may at any time notwithstanding the fact that the notice prescribed in sub-section (1) of section *sixteen* of the Settlers Ordinance may not have been received grant an extension of his lease for a period not exceeding five years at a rental not exceeding five per centum per annum of the valuation of the holding and the Minister may from time to time after the determination of the existence of the Board if application be made further extend the period of such extended lease; provided that no such further extension shall exceed five years nor the rental exceed five per centum per annum of the valuation of the holding;

(3) the Board may dispense with the notice prescribed in sub-section (1) of section *seventeen* of the Settlers Ordinance;

(4) the Board may acquire and supply stock under section *forty-two* of the Settlers Ordinance upon the same terms and conditions as farming requisites without requiring the conditions prescribed in paragraphs (a) (b) and (c) (Item B) of sub-section (1) of the said section to be fulfilled;

(5) the Board may acquire and supply any material suitable for carrying out permanent improvements and erect any such improvements upon condition that the cost thereof is added to the valuation of the holding and the rent or instalments of purchase price increased accordingly instead of advancing such material or cost under the provisions of sections *forty-two* and *forty-three* of the Settlers

Ordinance and such improvements shall remain the property of the Board until the issue of a Crown grant to a settler;

(6) the Board may in any case where it seems expedient to do so advance or supply money to a settler to enable him to purchase or pay for any farming requisites stock or materials for permanent improvements or to effect any such improvements or to pay for the effecting thereof upon the same conditions as are prescribed for the supply of such farming requisites stock or material;

(7) the Board may grant an extension of time for the making of any payment or for the fulfilment of any condition prescribed in any licence lease or contract; provided always that no such extension for a longer period than two years at a time shall be granted without the consent of the Minister;

(8) the Board may accept the surrender of any portion of a holding upon such terms and conditions as it may think fit.

Expenditure  
of money by  
Board.

7. The Board may expend money upon any object which in its opinion is necessary to protect or safeguard any property that may be or become vested in it or to recover any property claimed by it and the Board may further sell or dispose of any stock or other movable property when it deems it advisable.

Power of  
Board to  
remit pay-  
ments due  
by settler.

8. The Board may with the consent of the Governor remit in whole or in part any payment that is or may become due from any settler under any lease licence or contract and thereupon the right to receive such payment shall be finally extinguished in so far as the same is so remitted.

Alteration or  
amendment  
of conditions  
of contract.

9. The Board may with the consent of any settler make any alteration or amendment in the conditions of any contract with such settler and substitute other conditions therefor; provided always that no such amendment alteration or substituted condition shall be such as the Board could not insert in any new contract under any existing law or the other sections of this Act and that no such alteration amendment or substitution except where the same is expressly authorized by this Act shall be made in any existing lease or licence without the consent of the Minister.

Extension of  
time for  
payments and  
adjustment of  
instalments.

10. Anything in any lease licence contract or law to the contrary notwithstanding the Board may with the consent of the Governor and the settler

(1) extend the period fixed for the payment of the purchase price of a holding and adjust the instalments of such price in such a manner as though such extended period had been contemplated in the schedule to the Settlers Ordinance instead of a period of thirty years; provided always that such extended period shall in no event exceed fifty years;

(2) permit the purchase price of a holding to be paid at such time or times as the Board thinks fit during the period fixed for the payment of the purchase price or during such extended period;

(3) agree with the settler in consideration of any benefit granted that any privilege conferred upon him by any existing law or contract shall be abandoned;

(4) alter the terms of any licence lease or contract and substitute fresh terms and insert provisions in any new licence lease or contract for the purpose of giving effect to any act done or agreement entered into under this section.

11. (1) Upon the application of any settler the Board may grant a revaluation of his holding and if it thinks fit agree with a settler that the rent or instalments of purchase price shall be paid either from the date of such revaluation or from the commencement of the lease or licence on the basis of such revaluation instead of the original valuation; provided always that for every revaluation except revaluations under section *seventeen* of the Settlers Ordinance the consent of the Minister shall first be obtained.

Revaluation of holding.

(2) In the event of it being agreed as aforesaid that such revaluation shall date from the commencement of the lease or licence the Board may further make such arrangement with regard to any sums already paid by the settler by way of rent or instalment of purchase price in excess of the amount which would have been payable on such revaluation as it thinks fit.

(3) In the event of a revaluation being granted under the said section *seventeen* of any holding which has already been revalued prior to the date of this Act such revaluation shall be effected by a person to be agreed upon between the Board and the Minister and in the event of the Board and the Minister failing to agree upon such a person within one month of the Board notifying the Minister of its intention to grant a revaluation the Minister and the Board shall each appoint a valuer who shall revalue the holding and in the event of their failing to agree refer the matter to a third person to be selected by such valuers. The value arrived at in the above-mentioned manner shall be final and binding upon all parties for the purpose of such revaluation.

12. The Board may allot any additional land or permit the transfer of the lease or licence of any additional land to any settler; provided always that in any case where such land is not an adjoining holding within the meaning of sub-section (1) of section *fifty* of the Settlers Ordinance the consent of the Minister shall first be obtained.

Allotment of additional land.

\* 13. In addition to the regulations provided for by section *fifty-nine* of the Settlers Ordinance the Board may with the consent of the Governor make regulations governing the supply to and use of water for irrigation purposes by settlers and for fixing the rate or amount which shall be payable for such supply and use and for prescribing penalties for the contravention of such regulations.

Power to make regulations.

14. The Board may with the consent of the Minister sub-divide any holding into two or more holdings or amalgamate two or more holdings so that the same constitute one holding.

Sub-dividing of holdings.

\* For regulations water supply, Mooibank Settlement, Potchefstroom, see Govt. Notices Nos. 223 of 1908 (*Gazette*, 6/3/08) and 999 of 1908 (*Gazette*, 2/10/08).

Surrender of lease under Crown Land Ordinance and substitution of lease or licence under Settlers Ordinance.

15. The Board may agree with any settler for the surrender of a lease under the Crown Land Ordinance and the substitution thereof of a lease or licence under the Settlers Ordinance and carry out such agreement.

Joint holders.

16. The Board may permit any settler or settlers to admit any other person or persons as joint holders of his or their holding; provided that the total number of such joint holders shall not exceed five; and the Board may further permit any joint holders to transfer their interest in their holding to one or more of their number and in either case such admission or transfer shall be effected by notarial deed; provided always that the person for the time being acting as Chairman of the Board may in respect of any such admission or transfer perform the functions of a notary public.

Board may purchase additional land.

17. In cases where additional land is in its opinion required by any settler the Board may with the consent of the Minister obtain or purchase such additional land and whether the same adjoins such holding or not allot it to the lessee or licensee of such holding without carrying out the requirements of sections *two three four* and *five* of the Settlers Ordinance; provided that such land shall be duly surveyed and valued. The Board may further whenever any of the scheduled lands or lands acquired as aforesaid are from time to time vacant allot the same under the provisions of the Settlers Ordinance as amended by this Act without carrying out the requirements of such sections.

Board to have powers of district commissioner district land board or land board constituted under Crown Land Ordinance.

18. The Board may in respect of the scheduled lands and of any lands acquired by it under the provisions of section *seventeen* of this Act and of the persons from time to time in occupation thereof exercise any or all of the duties or rights conferred or imposed upon any district commissioner or district land board or the land board constituted under the Crown Land Ordinance and may further from time to time authorize such persons as it thinks fit to exercise such duties or rights or any portion thereof; provided always that the Board may at any time withdraw or vary such authority.

Board may grant settler permission to sell his stock.

19. The Board may at any time upon such terms and conditions as it may think fit permit any settler to whom stock or money to purchase stock has been supplied whether under the Settlers Ordinance or otherwise to sell exchange or otherwise dispose of any such stock and to obtain other stock or farming requisites or material for the purpose of effecting permanent improvements with the proceeds of such sale or to defray the cost of effecting any such improvements out of such proceeds. Notwithstanding the fact that the agreement covering the supply of such stock may not provide for such withdrawal the Board may further with the consent of the settler withdraw any stock from him and advance or sell or otherwise dispose of the same to any person in such manner and upon such terms and conditions as it considers advisable.

20. In any case where stock has already been supplied to any settler upon condition that the original number shall be returned to the Government and the increase divided after a fixed period the Board may upon the application of the settler with the consent of the Minister sell any such stock to the settler on such terms and conditions as the Board may think fit or may permit the settler to take over any such stock as an advance.

Selling or advancing to settler of stock held by him.

21. With the approval of the Minister the Board may on the application of the settler convert any licence into a lease and further permit such conversion to date from the commencement of such licence and make such arrangement as it thinks fit with regard to any sums already paid by the settler in respect of instalments of purchase price in excess of the amount that would have been payable as rent under the lease into which such licence is converted.

Conversion of licence into lease.

22. With the approval of the Minister the Board may establish or equip and maintain in any district such buildings or works as are in the opinion of the Board likely to assist any settlers in the storage preparation or disposal of produce.

Establishment of buildings and works by Board.

23. The Board may appoint any of its members to act as chairman in the absence of its Chairman and such member may while so acting perform all the functions of the said Chairman.

Acting Chairman of Board.

### PART III.

24. Anything in the law or any agreement to the contrary notwithstanding the following terms and conditions shall be deemed to be inserted in every lease granted under the Settlers Ordinance or in any extension of such lease and to be binding upon all parties concerned and such terms and conditions may be inserted by the Board in any leases or extensions hereinafter granted:—

Terms deemed to be inserted in lease.

(1) The lessee may at any time pay to the Minister the sum representing the valuation of his holding.

(2) After such payment the lessee shall subject to the provisions of section *seventeen* of the Crown Land Ordinance continue in occupation of his holding for a period of ten years from the date of the commencement of his lease and from the date of such payment a rent of one shilling per year shall be payable to the Board instead of any rent named in such lease.

(3) Upon the expiration of the said period of ten years the lessee shall in the circumstances mentioned in section *twenty-seven* of this Act be entitled to a Crown grant as therein prescribed.

25. Upon the payment to the Minister of the sum referred to in the last preceding section the Governor shall pay to the Board an amount equal to such sum as if the holding had been under licence would during a period of five years from the first day of May 1907 have been payable by the holder in

Payment to Board by Governor of moneys equal to moneys payable by holder of licence.



respect of the capital portion of the instalments or purchase price in accordance with the schedule to the Settlers Ordinance.

Repayment  
of advances.

26. For the purpose of the repayment of any advance under section *forty-five* of the Settlers Ordinance or under any agreement the termination or expiration of any extension of a lease or in cases where a lease may be or has been converted into a licence the termination or expiration of such licence or in cases where a licence may be or has been converted into a lease the termination or expiration of such lease shall for the purpose of such repayment unless other special arrangement shall have been made between the Board and the settler be deemed to be the termination or expiration of the lease or licence mentioned in such section or agreement anything to the contrary in such section or agreement notwithstanding.

Conditions of  
Crown grants  
to settlers.

27. Anything to the contrary notwithstanding in the Settlers Ordinance contained a Crown grant shall be made to a settler under the following circumstances:—

(1) In the case of a licence the period of which has expired if the licensee has fulfilled all the terms and conditions thereof and paid all debts due to the Government.

(2) In the case of a licence where ten years have elapsed since the date of its commencement if the licensee has fulfilled all the terms and conditions thereof and paid all debts due to the Government and has further paid such portion of the instalments of the purchase price still to become due under the Settlers Ordinance or this Act as is apportionable to capital.

(3) In the case of a lease or of any extension thereof where ten years have elapsed since the date of the commencement of such lease if the holder thereof has fulfilled all its terms and conditions to the satisfaction of the Governor and paid the sum representing the valuation of the holding and all debts due to the Government.

Provided always that any Crown grant made under this section shall be subject to the provisions of sections *twenty-one* and *twenty-two* of the Settlers Ordinance and of the next succeeding section.

Reservation  
of minerals.

28. (1) Nothing in any law shall have the effect of ceding any right to minerals to the Board except when and in so far as such rights have already been promised in writing or granted by the Government to any settler or where the Board or the Government may be under a legal obligation to grant such rights to any settler; provided always that compensation shall be paid by the Governor upon the happening of any of the following events that is to say:—

(a) In all cases where damage is caused to a settler by any operations connected with the prospecting for or the discovery of minerals under any law relating to minerals such compensation as is payable under sub-section (2) (a) of section *twenty-two* of the Settlers Ordinance shall be paid by the Governor to the settler; provided always that the Governor may recover the amount so paid from the person causing such damage.

(b) In all cases where any portion of a holding is resumed or proclaimed as in the said section *twenty-two* is mentioned the settler may if he thinks fit by giving notice to the Minister of Lands within six months of such resumption or proclamation surrender his entire holding and thereupon such surrender shall be accepted and be deemed for the purpose of compensation to be a resumption thereof by the Government; provided always that in the event of no such notice being given as aforesaid compensation in respect of the deprivation of the portion of the holding so proclaimed or resumed shall be paid by the Governor to the Board as prescribed in sub-section (2) (b) of this section and the portion so proclaimed or resumed shall thereupon revert in the Governor.

(2) In all cases where a holding is proclaimed or resumed as aforesaid the Governor shall at the option of the settler to be exercised in the manner hereinafter stated pay to the Board either

(a) the entire sum expended by way of capital by the settler or the Board upon the improvement of such holding up to the date of such payment (including a reasonable amount in respect of the settler's own labour upon such improvement) together with any sum already paid to the Government in respect of so much of the instalments of the purchase price of the holding as is apportionable to capital; or alternatively

(b) if the settler gives notice to the Minister of Lands within two months of proclamation or of the date of the notification to him of the Governor's intention to resume his holding the following sums:—

- (i) The amount to which the settler would be entitled under the provisions of the Settlers Ordinance arrived at in the manner prescribed in sub-section (4) of section *twenty-two* thereof.
- (ii) A sum equal to ten per centum of the said amount.
- (iii) The value of any improvements the cost or materials of which may have been supplied by the Board.

Provided always that upon such proclamation or resumption the holding shall revert in the Governor.

(3) Any sum received by the Board under this section shall be paid by it to the settler; provided always that the Board may at its discretion deduct from any sums so received

(a) the amount of any debts already due to it from the settler except in the case of a licence any sum due in respect of such part of the purchase price of the holding as is apportionable to capital;

(b) the amount or cost of any advances;

(c) any amount due or to become due to the Board from the settler under any promissory note or bill of exchange;

(d) the value of any improvements effected by the Board the cost of which has been added to or included in the valuation of the holding for the purposes of the lease or licence.

(4) In the event of proclamation or resumption as aforesaid the Governor may if the settler so desires allot him another holding not inferior to the holding so resumed or proclaimed and unless it shall be otherwise specially agreed between the Governor and the settler upon the same terms as those upon which his former holding was allotted.

\* (5) The Governor shall consult the Board before a holding or any part thereof is proclaimed or resumed as aforesaid and before any right or licence to prospect or any discoverer's rights or any certificate lease or licence in connection with the discovery or working of minerals is issued to any person in respect of a holding and no certificate lease or licence granted under any law relating to minerals shall entitle the holder thereof to prospect or carry on mining operations upon any cultivated land plantation or homestead or within two hundred yards of any building.

(6) Nothing in this section contained shall apply to any lands in which the right to the minerals is not vested in the Governor.

(7) The provisions of this section shall in the event of any such proclamation or resumption (save in the case of the lands referred to in the last preceding sub-section) be deemed for the purposes of compensation to be substituted for the provisions of the Settlers Ordinance.

(8) After the determination of the existence of the Board the Governor shall by way of compensation pay to the settler upon any such resumption or proclamation the amount to which he would be entitled under this Act or any other law.

(9) Any amount payable under this section in respect of compensation shall be agreed upon between the Governor and the party to whom such compensation is payable by the Governor and failing such agreement shall except where express provision to the contrary is made in this Act be for all purposes finally determined by arbitration under the provisions of the Arbitration Ordinance 1904 or any amendment thereof.

29. Upon the reversion to the Governor of any holding or any portion thereof under the provisions of this Act all movable property and stock to which the Board under this or any other law or any agreement would be entitled apart from such reversion shall remain the property of the Board during its existence.

30. For the purpose of rating taxation and of any law relating to minerals the scheduled lands and any lands which may hereafter be acquired by the Board shall subject to the provisions of this Act be deemed to be Crown lands and sections *nine* and *ten* of the Crown Land Ordinance shall apply *mutatis mutandis* in respect of all lands allotted or to be allotted and also of all leases or licences to be issued by the Board; provided always that nothing in this section contained shall in cases where the mineral rights or any portion thereof are or may be vested in any person other than the Governor

\* See Act No. 35, 1908, section 13.

Movable property to remain property of Board on reversion.

For purposes of rating etc. scheduled lands to be deemed Crown lands.

deprive such person of any such rights or in any way affect the exercise thereof and in all cases where the said rights or any portion thereof are or may become vested in the Board any benefit derivable by the Governor therefrom under any law relating to minerals shall accrue to the Board.

31. Whereas it appears that the provisions of the Settlers Ordinance have not in all respects been complied with and it is necessary that certain agreements and acts should be validated it is hereby expressly enacted anything in the Settlers Ordinance contained notwithstanding that the agreements and undertakings referred to below and any security given under and in respect of any such agreement shall be deemed to have been and to be at all times valid and effectual:—

Validation of certain agreements and acts.

(a) Any undertaking or agreement entered into by the Government with the persons from time to time in occupation of the scheduled lands containing any or all of the following provisions:

- (i) that the date of the commencement of any lease or licence granted under the Settlers Ordinance should for any purpose commence at a later date than the date prescribed by law;
- (ii) that any licence should be converted into a lease and the moneys already paid on account of instalments of the purchase price credited to the allottee in respect of rent;
- (iii) that a revaluation of any holding should take place and the rent or instalments of purchase money be paid as from the commencement of the lease or licence or from any date on the basis of such revaluation instead of on the basis of the original valuation;
- (iv) that the obligation to pay rent should be dispensed with altogether or that such rent should be remitted for a longer period than by law permitted;
- (v) that advances should be made to any lessee or licensee and the amount or cost of such advances added to the valuation of the holding and the rent or instalments of purchase price increased accordingly;
- (vi) that advances should be made or stock supplied in cases where the conditions required by law were not satisfied or upon conditions which were not in accordance with law;
- (vii) that any sums due to the Government under the Settlers Ordinance or otherwise should be remitted altogether or written off.

(b) Any other undertaking or agreement entered into between the Government and any person in occupation of the scheduled lands to which the Minister and the Board may agree in writing that the provisions of this section should be applied.

32. All acts done by the Board between the first day of May 1907 and the date of the taking effect of this Act and which would if this Act had been in force on such first-mentioned date have been lawful and all sums expended in

Validation of acts of Board since first day of May 1907.

respect of such acts out of any funds at its disposal shall be deemed to have been acts validly done and sums properly expended.

Limitation of Act to certain lands.

33. Save as is provided in the next succeeding section this Act shall not apply to any lands except the scheduled lands and such lands as may be acquired by the Board under the provisions of section *seventeen* of this Act.

Powers etc. of board on determination to be transferred to Governor.

34. Upon the determination of the existence of the Board all the rights powers and obligations conferred or imposed upon it by this Act shall be deemed to be transferred to the Governor and any such right power or obligation may at any time be exercised by the Governor in respect of lands which the Minister may allot to any persons under the provisions of the Settlers Ordinance and in respect of such persons.

Title and date of taking effect.

\*35. This Act may be cited for all purposes as the Land Settlement Act 1907 and shall not take effect unless and until the Governor shall declare by proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall take effect on such date as the Governor may by like proclamation fix.

\* See Proc. No. 74 (Admn.) 1907, notifying assent of His Majesty (*Gazette* 6/9/07, p. 456), and Proc. No. 82 (Admn.) 1907, fixing the date of taking effect of Act as 27th September, 1907 (*Gazette*, 27/9/07, p. 545.)

**1908.**

Act No. 1 of 1908.]

[Promulgated 10th August, 1908.

AN ACT

TO APPLY A SUM NOT EXCEEDING FIVE HUNDRED THOUSAND POUNDS STERLING TOWARDS THE SERVICE OF THE YEAR ENDING THE THIRTIETH DAY OF JUNE, 1909.

Assented to 1st July, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The general revenue of this Colony shall be and is hereby charged towards the service of the year ending the thirtieth day of June 1909 with a sum not exceeding five hundred thousand pounds sterling, and such sum shall be applied towards the service of that year in conformity with the Estimates of the Expenditure for the year ending the thirtieth day of June 1908.

Public revenue charged with £500,000 towards the service of the year ending 30th June, 1909.

2. This Act may be cited for all purposes as the Appropriation (Part 1908-1909) Act 1908 and shall take effect on the first day of July 1908.

Title and date of taking effect.

Act No. 2 of 1908.]      [Promulgated 10th August, 1908.

AN ACT

TO FURTHER AMEND THE LEPROSY LAW OF THIS COLONY.

Assented to 25th July, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

PRELIMINARY.

1. Section *nine* of the Leprosy Ordinance 1904 (herein after referred to as the principal law) shall be and is hereby repealed and the following provision substituted therefor:—

*For text see Ordinance No. 23, 1904, section nine.*

2. Section *fourteen* of the principal law shall be and is hereby repealed and the following provision substituted therefor:—

*For text see Ordinance No. 23, 1904, section fourteen.*

3. Section *fifteen* of the principal law shall be and is hereby amended by the deletion of the words "to perform" from the sixth line thereof and the substitution for such words of the words "arrange for the performance."

4. Section *twenty-one* of the principal law shall be and is hereby amended by the insertion in sub-section 1 (b) thereof immediately before the word "officers" of the word "subordinate."

5. Section *twenty-six* of the principal law shall be and is hereby amended by the deletion of paragraph (b) thereof and the substitution of the following new paragraph:—

*For text see Ordinance No. 23, 1904, section twenty-six (b).*

6. Section *one* of the Leprosy Law Amendment Act 1907 shall be and is hereby repealed.

†7. This Act may be cited for all purposes as the Leprosy Law Further Amendment Act 1908 and shall come into operation on a date to be fixed by the Governor by proclamation in the *Gazette*.

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† See Proc. No. 79 (Admn.) of 1908 (*Gazette*, 18/9/08, p. 1001), fixing date as 1st Oct., 1908.

Act No. 3 of 1908.] [Promulgated 10th August, 1908.

AN ACT

TO FURTHER AMEND THE LUNACY PROCLAMATION, 1902.

Assented to 29th July, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Section *twelve* of the Lunacy Proclamation 1902 (hereinafter referred to as the "principal law") shall be and is hereby amended by the deletion of all words from and including the words "provided that" to and including the words "such asylum" and by the substitution for the words so deleted of the following:—

*For text see Transvaal Proclamation No. 36, 1902, section twelve.*

2. Section *twenty-eight* of the principal law shall be and is hereby amended by the addition at the end thereof of the following words:—

*For text see Transvaal Proclamation No. 36, 1902, section twenty-eight.*

3. (1) The Colonial Secretary may, in his discretion but subject to sub-section (2) of this section, direct that a Governor's pleasure lunatic cease to be treated as such; but every such direction shall in respect of the safe custody, removal, or discharge of such lunatic be subject to the proviso to section *one* of the Lunacy Law Amendment Act 1907.

(2) As soon as the Colonial Secretary shall have given a direction under sub-section (1) that a Governor's pleasure lunatic, who is still of unsound mind, shall cease to be treated as a Governor's pleasure lunatic, the asylum superintendent or other custodian of such lunatic shall transmit to the Attorney-General a copy of the last report made to the Colonial Secretary in respect of such lunatic together with such other documents as may be necessary, and the Attorney-General shall, without delay, place the same before a judge in chambers for his consideration.

(3) The judge shall thereupon order the further detention of such lunatic as a case under Part I of the principal law or make such further order in accordance with section *fifteen* of the principal law as he shall deem fit and such order shall take effect from and after the date of the direction of the Colonial Secretary given under sub-section (1).

Amendment of section *twelve* of Proclamation (Transvaal) No. 36 of 1902.

Amendment of section *twenty-eight* of Proclamation (Transvaal) No. 36 of 1902.

Provisions for Governor's pleasure lunatic ceasing to be such and steps to be taken thereupon.



(4) Pending the receipt of any order of the judge, the order or warrant, authorizing the detention of the Governor's pleasure lunatic as such, shall continue in operation as an authority for his detention in an asylum.

Application of Part III of Proclamation (Transvaal) No. 36 of 1902, to unrecovered discharged lunatics.

4. Part III of the principal law shall apply in respect of any lunatic who in terms of the regulations made under section *seventy* thereof has been discharged from an asylum unrecovered to the care of friends, relatives, or approved persons as a lunatic requiring no longer special treatment.

Repeal of section *sixty-seven* of Proclamation (Transvaal) No. 36 of 1902, and substitution of new provisions.

5. Section *sixty-seven* of the principal law shall be and is hereby repealed and the following provision substituted therefor:—

*For text see Transvaal Proclamation No. 36, 1902, section sixty-seven.*

Use of term "visitor" in Proclamation (Transvaal) No. 36 of 1902.

6. Wherever in the principal law the term "visitor" or "official visitor" is used the term "member of the Asylums Board" shall be substituted therefor.

Repeal of section *sixty-nine* and section *seventy* (3) of Proclamation (Transvaal) No. 36 of 1902.

7. Section *sixty-nine* and sub-section (3) of section *seventy* of the principal law shall be and are hereby repealed.

Title and date of operation of Act.

\* 8. This Act may be cited for all purposes as the Lunacy Law Further Amendment Act 1908 and shall come into operation on a date to be fixed by the Governor by proclamation in the *Gazette*.

\* See Proc. No. 77 (Admn.) of 1908 (*Gazette*, 18/9/08, p. 1001), fixing date as 1st Oct., 1908.

Act No. 4 of 1908.]

[Promulgated 10th August, 1908.]

## AN ACT

TO PROVIDE FOR THE ESTABLISHMENT OF A BOARD TO DEAL WITH THE DETENTION, WELFARE, AND TREATMENT OF PERSONS AFFLICTED WITH LUNACY OR LEPROSY IN THIS COLONY.

Assented to 25th July, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. In this Act, unless inconsistent with the context;

Interpreta-  
tion of  
terms.

“Governor” shall mean the officer for the time being administering the Government of this Colony acting by and with the advice of the Executive Council thereof;

“institution” shall mean ~~as the context may require either a lunatic asylum or a leper asylum, lunatic asylum being an asylum as defined by the Lunacy Proclamation 1902 or any amendment thereof and leper asylum being an asylum as defined by the Leprosy Ordinance 1904 or any amendment thereof;~~

“Minister” shall mean the Colonial Secretary or any other Minister to whom the Governor may from time to time assign the carrying out of this Act;

“patient” shall mean any person confined or detained under lawful authority in an institution or in any other place pending removal to an institution;

“superintendent” shall mean ~~as the context may require either the medical superintendent of a lunatic asylum or the superintendent of a leper asylum.~~

## CONSTITUTION OF BOARD.

2. (1) From the date of coming into operation of this Act there shall be established a board to be styled the “Transvaal Asylums Board,” consisting of three members, who shall be appointed by the Governor and hold office for a period of three years from such date. Of the members so appointed, one shall be a medical practitioner registered as such under the laws of this Colony, one shall be a duly admitted advocate or attorney of the Supreme Court and the other member may be a person not qualified in either such manner. One member of the board shall be named by the Governor as chairman thereof.

Establish-  
ment of  
asylums  
board.

(2) On the expiry of the period mentioned in sub-section (1) the Governor shall appoint for a further period of three years a board likewise constituted, and continue to make such appointments after the expiry of each such period of three years.

(3) The Governor may reappoint from time to time as a member of the board any person whose period of office may have expired or is about to expire.

Circumstances under which member of board vacates office.

3. (1) A member of the board shall also vacate his office—

(a) if he become insolvent, or assign his estate for the benefit of or make an arrangement with his creditors;

(b) if he dies, or become of unsound mind, or be convicted of an offence and sentenced to imprisonment without the option of a fine;

(c) if he be absent from three consecutive ordinary meetings of the board without the leave of the board;

(d) if he give one month's notice in writing to the Minister of his intention to resign office and his resignation be accepted by the Governor.

(2) In the event of the death, incapacity, or resignation of any member the vacancy so caused shall be filled by the Governor by a person qualified as the vacating member was qualified and for a period which he would, but for his vacation of office, have continued in office.

Remuneration of board.

4. The members of the board shall receive such remuneration as the Governor may approve from moneys voted by Parliament for the purpose.

#### DUTIES OF BOARD.

Visits of board and investigation of complaints.

5. The board shall visit every institution at least once in every two months, and shall at least once in every six months visit every ward in each such institution, give personal observation to every patient on the roll thereof and afford every such patient an opportunity of making in person to the board any representation he may wish to make. Every reasonable complaint or grievance made to the board by a patient shall be investigated by it.

Board to make suggestions and report to Minister.

6. The board shall make to the Minister such suggestions and observations as to it shall seem desirable, regarding the welfare of lunatics or lepers in this Colony, and shall in all cases report to the Minister the result of any visit of inspection made by it either to an institution or to any other place used for the housing or detention of patients.

Meetings of the board.

7. The board shall meet for the despatch of business whenever required due notice being given of every meeting by the chairman of the board. At each meeting there shall be presented separate reports in respect of every institution, showing—

(a) the number of patients admitted since the date of the last meeting of the board;

(b) the number of patients discharged since such date;

(c) the number of patients who have died since such date;

(d) the number of patients who have been transferred to other institutions or to another portion of the same institution since such date;

and in addition in the respect of a lunatic asylum—

(i) a return of the cases in which mechanical restraint has been imposed since such date;

(ii) a return of orders made since such date for the seclusion of patients;

and the superintendent, if he so desires, may bring any matter to the notice of the board affecting the interests of any patient.

8. At every meeting of the board the superintendent of the institution concerned in any matter under consideration shall be present as an advisory member. Attendance of superintendents at meetings.

9. (1) Two members (exclusive of the advisory member aforesaid) shall be a quorum for meetings of the board. Minutes of proceedings at meetings of the board.

(2) Minutes of the proceedings of each meeting shall be kept and regularly entered in a book kept for the purpose, and shall be submitted to the next succeeding meeting, and, if passed thereat as correct, shall be confirmed by the signature of the member presiding thereat.

(3) Minutes so signed shall, without further proof, be evidence in all courts and places of the proceedings of the meeting of which they purport to be minutes.

10. Notwithstanding anything contained in the Lunacy Proclamation 1902 or any regulations made thereunder, the board may, by resolution duly adopted and recorded after proper enquiry, discharge any patient (not being a criminal lunatic or Governor's pleasure lunatic) detained under lawful authority in a lunatic asylum whether he is a recovered or unrecovered patient, and either conditionally or unconditionally as it may in its discretion determine: provided that when any action taken by the board under this section is in conflict with the written report to the board of the superintendent of the asylum in which the patient is detained, the board shall report to the Minister the reasons for its action. Discharge of lunacy patients from asylum by board.

11. Notwithstanding anything in the Lunacy Proclamation 1902 contained, a criminal lunatic or Governor's pleasure lunatic shall not be discharged either absolutely or conditionally until the Minister has consulted the board as to the mental condition of such lunatic. Discharge of criminal and Governor's pleasure lunatics.

12. The Board shall have no authority over the superintendent or any other officer in service at an institution. Board no authority over officers of institutions.

\* 13. This Act may be cited for all purposes as the Asylums Board Act 1908 and shall come into operation on a date to be fixed by the Governor by proclamation in the *Gazette*. Title and date of operation of Act.

\* See Proc. No. 78 (Admn.) of 1908 (*Gazette*, 18/9/08, ip. 1001), fixing date as 1st Oct., 1908.

Act No. 5 of 1908.]

[Promulgated 28th July, 1908.]

## AN ACT

TO PROVIDE FOR THE ESTABLISHMENT, ORGANIZATION, AND  
CONTROL OF THE TRANSVAAL POLICE.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

## PRELIMINARY.

Repeal of  
laws.

1. The laws mentioned in the Schedule to this Act shall be and are hereby repealed, together with so much of any other law as may be repugnant to or inconsistent with the provisions of this Act.

Interpreta-  
tion of terms.

2. In this Act, unless inconsistent with the context;
- “ commissioned officer ” shall mean the Commissioner, and any deputy commissioner, inspector, or sub-inspector of the Transvaal Police, or any person lawfully acting in such capacity;
- “ force ” shall mean the officers and men of the Transvaal Police;
- “ Governor ” shall mean the officer for the time being administering the government of this Colony, acting by and with the advice of the Executive Council thereof;
- “ imprisonment ” shall mean imprisonment with or without hard labour, as the court having jurisdiction in the offence mentioned in this Act may determine;
- “ member of the force ” shall mean any commissioned officer, non-commissioned officer, or man serving in the force in terms of this Act or the regulations;
- “ Minister ” shall mean the Attorney-General or any other Minister to whom the Governor may from time to time assign the carrying out of this Act;
- “ regulation ” shall mean a regulation made under section *nine* of this Act.

## PART I.

## ORGANIZATION.

Composition  
of force.

3. There shall be established, on the date fixed by the Governor in the proclamation mentioned in section *twenty-eight*, a police force entitled the Transvaal Police and composed of—

- (a) those members of the Transvaal Town Police Force established under Proclamation No. 15 of 1901 who are shown upon the strength of that force on the day prior to the date so fixed;

(b) such persons as may be enrolled as members of the force in terms of this Act on or subsequent to that date.

4. The Governor may from time to time appoint an officer to be styled the Commissioner of Police together with such deputy commissioners, inspectors and sub-inspectors to the Transvaal Police as may be necessary, and may suspend, reduce, discharge, or dismiss any member of the force subject to the provisions of this Act or the regulations. Every such appointment of such an officer shall be notified in the *Gazette*.

Appointment of officers of force.

5. The Commissioner shall, subject to the directions of the Governor, have the command, superintendence, and control of the force and, subject to the provisions of section *four* and the regulations prescribing the conditions of service and numerical establishment of the force, shall appoint fit and proper persons to be members of the force and to act in various capacities in accordance with such establishment. Provided that no person shall be appointed superintendent in the force by the Commissioner, otherwise than in an acting capacity, unless and until the appointment shall have been confirmed by the Governor.

Commissioner to have command of force.

6. Every member of the force shall exercise such powers and perform such duties as are or shall be by law conferred or imposed upon any police officer or constable, and shall obey all lawful directions touching the execution of his office which he may from time to time receive from his superiors in the force.

Powers and duties of members of force.

7. The Governor may, in case of war or other emergency, employ the force or any part thereof for the purpose of assisting in the defence of the Colony either within or beyond the borders thereof and may place the force or any part thereof, while so employed, under the orders and directions of such person as he shall appoint in that behalf, and, while so employed, the force or part thereof shall be subject to the law for the time being regulating the discipline, command, and control when on active or military service of the other forces of the Colony; provided that nothing in this section contained shall be construed as excluding a member of the force at any time from the operation of this Act or the regulations; provided further that no member of the force shall be liable to be punished for an offence under this Act as well as under a law regulating the discipline, command, and control of such other forces of the Colony.

Employment of force in times of emergency.

8. (1) In time of war, disturbance of the public peace, riot, or other emergency, or apprehended emergency, no member of the force shall be at liberty to resign therefrom, notwithstanding that the period of his engagement shall have expired, unless expressly authorized in writing so to do by the Commissioner, and the Commissioner shall at no time be at liberty to resign from the force without the consent of the Governor.

No member of force to resign in time of emergency.

(2) The Commissioner may, notwithstanding that the period of engagement of a member of the force has expired,

retain the services of such member for a period not exceeding six months thereafter, if, in the opinion of the Commissioner, the exigencies of the public service require it.

Power of  
Governor to  
make  
regulations.

\* 9. The Governor may, from time to time, make, alter, and rescind regulations not inconsistent with this Act for all or any of the matters or things, namely:—

(1) The enrolment, promotion, posting, suspension, reduction, transfer, discharge, or dismissal of members of the force.

(2) The numerical establishment of the force, and the various divisions, branches, grades, ranks, and appointments therein.

(3) The control and discipline of the force.

(4) The pay and allowances of the force, and the stoppages to be made therefrom.

(5) The assemblage of courts of enquiry and rules regarding the attendance of witnesses.

(6) Arms, equipment, ammunition, and saddlery, and the care, safe custody, and maintenance of the same.

(7) The training of the force.

(8) The dress and clothing of the force.

(9) Returns, books, and correspondence relating to the force.

(10) The provision of animals, draught, or other, for use in the force, and the care, safe custody, and maintenance of the same.

(11) The general government and maintenance of the force.

Every such regulation shall be binding on any member of the force as soon as it is communicated to him by a person having authority to communicate it, and notwithstanding that it has not been published in the *Gazette*. All such regulations and any alteration or rescission thereof shall be published in the *Gazette* and shall be laid upon the Tables of both Houses of Parliament within seven days after the same have come into operation, or, if Parliament be not then in session, within seven days after the commencement of its next ensuing session.

## PART II.

### DISCIPLINE.

Penalty for  
contravention  
of Act by  
member of  
force.

10. Any member of the force contravening any of the provisions of this Act or any regulation shall, upon conviction by a court of resident magistrate or a board of officers constituted in terms of section *twelve*, be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding one year or to imprisonment without the option of fine, or to both such fine and imprisonment.

\* For regulations, see Govt. Notices Nos. 707 of 1908 (*Gazette*, 29/7/08), 1133 of 1908 (*Gazette*, 13/11/08), 206 of 1909 (*Gazette*, 19/2/09), 233 of 1909 (*Gazette*, 26/2/09), 290 of 1909 (*Gazette*, 12/3/09), 1232 of 1909 (*Gazette*, 22/10/09).

11. Notwithstanding anything contained in section *ten*, if any member of the force below the rank of superintendent shall contravene any provision of this Act or any regulation, it shall be lawful for any commissioned officer in command of such member, after trial, to fine him a sum not exceeding five pounds, or to sentence him to imprisonment for any period not exceeding fourteen days or to both such fine and imprisonment; provided that any officer who shall try any member of the force under this section shall forthwith after such trial transmit the proceedings in and full particulars of the case to the Commissioner who may quash the conviction or confirm or reduce the sentence; provided further that the Commissioner may, if he thinks fit, restrict, in respect of any officer, the jurisdiction conferred by this section.

Contravention of Act by member of force below the rank of superintendent.

12. Boards of officers constituted in terms of this Act shall consist of three officers of the force who shall be selected and summoned by the Commissioner or a deputy commissioner. The senior officer of the board shall be the president thereof, and the decision of the majority of the members shall be deemed to be the decision of the board.

Boards of officers.

13. Any board constituted as aforesaid or the president or any member thereof may in writing summon before him any person alleged to be a witness material to the charge and the president or any member of the board may administer oaths to such witness, and generally the board may investigate the charge in such manner as the Governor may by regulation determine, and any person so summoned as a witness who shall fail to attend at the time and place mentioned in such summons or having attended shall refuse to answer all questions that may be lawfully put to him, shall be liable on conviction before a court of resident magistrate to a fine not exceeding twenty-five pounds or in default of payment to imprisonment for a period not exceeding one month.

Summoning of witnesses before board of officers.

14. When any board of officers shall convict any member of the force under this Act, the president of such board shall, before promulgating the sentence, transmit the original proceedings in the case to the Commissioner, and no conviction before or sentence of such board shall be valid unless and until the same shall have been confirmed by the Commissioner, who may quash the conviction or confirm or reduce the sentence.

Confirmation of sentence of board of officers.

15. All persons arrested for any offence under this Act and all persons sentenced to imprisonment by an officer or board of officers as aforesaid may be imprisoned in any place set apart as a guard-room or police prison; provided that, if the sentence exceed fourteen days' imprisonment, the person convicted shall be removed to the nearest gaol, there to undergo such sentence, and when so removed he shall be in the same position as if the sentence had been the sentence of one of the ordinary courts of law of this Colony; provided further that so long as any such person shall be imprisoned in any such guard-room or police prison the same shall, so far as such person is concerned, be deemed to be a public gaol and the court of resident magistrate of the district shall have the like jurisdiction and powers as

Imprisonment of certain offenders under Act in particular places.



to offences committed by any such person while imprisoned in any such guard-room or prison as it possesses in respect of offences committed in a gaol within its jurisdiction.

Period of imprisonment not to reckon as service in force.

16. No period during which any member of the force shall be under arrest or imprisoned for any offence for which he shall be afterwards convicted, or during which he shall be imprisoned on a sentence imposed under this Act or otherwise, shall be reckoned for any purpose as part of such member's period of service, unless the officer, board, or court imposing such sentence shall otherwise direct.

Suspension of members of the force.

17. A member of the force may be suspended from office pending an enquiry into any charge of misconduct against him, but shall not, by reason of such suspension, cease to be a member of the force. The powers, privileges, and benefits vested in him as such member shall however, during his suspension, be in abeyance, but he shall continue subject to the same responsibilities, discipline, and penalties, and to the same authorities as if he had not been so suspended.

Offender under this Act not necessarily to be prosecuted under the provisions thereof.

18. Nothing in this Act contained shall prevent any person from being prosecuted otherwise than under the provisions of this Act in all cases in which he would be liable to such prosecution, but no member of the force, acquitted or convicted of any crime or offence under this Act, shall be liable to be again tried for any crime or offence arising from the same set of facts and circumstances.

Reduction or dismissal of members of the force.

19. The Commissioner may, upon investigation, where necessary, of which a record shall be duly kept, reduce or dismiss any member of the force (other than a commissioned officer or superintendent) whom he shall deem remiss or negligent in the execution of his duty or otherwise unfit to remain in the force.

### PART III.

#### GENERAL.

Penalty for disposing of Government property.

20. Any member of the force who lends, pledges, sells, or contrary to orders or the regulations, disposes of any Government property shall on conviction be liable to the penalties mentioned in section *twenty-one*.

Penalty for unlawfully receiving or having any property of force.

21. If any person shall, in consequence of the sale, pledge, loan, or other disposition of any animal, arms, ammunition, accoutrements, clothing, or equipment by a member of the force, in contravention of this Act or of the regulations, knowingly receive or have any such animal, arms, ammunition, accoutrements, clothing, or equipment, such person shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds in respect of each such animal or article, or in default of payment to imprisonment for a period not exceeding one year.

Property of force not to be seized or attached for debt of member of force.

22. No animal or article mentioned in the last preceding section and forbidden by this Act or the regulations to be sold, pledged, or otherwise disposed of, shall be capable of being seized or attached by or under any writ of execution

sued out against any member of the force, nor shall the same pass by or under any order made for the sequestration of the estate of any member of the force.

23. It shall not be lawful for any member of the force to assign the whole or any part of any salary or allowance payable under this Act or the regulations, nor shall the whole or any part of any such salary or allowance be capable of being seized or attached by or under any writ of execution sued out against any member entitled to such salary or allowance, nor shall the same pass by or under any order made for the sequestration of the estate of any such member.

Salary or allowance not to be assigned or attached.

24. The Commissioner may, with the authority of the Minister, award to any member of the force such sum of money as the Commissioner may deem right, as a reward for extraordinary diligence or exertion, or as compensation for wounds or severe injuries received by such member in the performance of his duty.

Rewards for extraordinary diligence or exertion.

25. (1) If any person, not being a member of the force, shall put on or assume the dress, name, designation, or description of any member of the force, or shall make any agreement with any member of the force to induce him in any way to forego his duty, or shall supply any member of the force while on duty with intoxicating liquor, or shall connive at any act whereby any lawful order given or any regulation in relation to the force may be evaded, every such person shall, in addition to any other punishment to which he may be liable, be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding three months.

Penalty for any person unlawfully holding himself out as a member of the force.

(2) If any person shall by a false certificate or any false representation obtain admission to the force, or, if having been dismissed from the force, a person shall by concealing such dismissal receive any pay, allowance, gratuity, or pension, he shall be guilty of an offence and liable to imprisonment for a period not exceeding three months without the option of a fine.

26. For the protection of persons acting in the execution of this Act all legal proceedings, civil or criminal, against any person for anything done in pursuance of this Act, shall be commenced within four months after the cause shall have arisen or offence have been committed and not otherwise, and notice in writing of any action and of the cause thereof shall be given to the defendant one month at least before the commencement thereof, and if judgment be given for the defendant or the defendant be granted absolution from the instance of the plaintiff discontinue any such action or if upon exception or otherwise judgment be given against the plaintiff, the defendant shall recover his full costs as between attorney and client.

Limitation of actions.

27. The Commissioner may, on the occurrence of any riot, disturbance of the public peace, or public emergency, or whenever he has reasonable grounds for anticipating such

Appointment of special constables.

occurrence, appoint one or more fit and proper persons to be special constables for a specified time, and such persons shall, while so acting, be vested with the same powers, functions, and responsibilities, and shall be subject to the same discipline and authority as members of the force.

Title and date  
of operation  
of Act.

\* 28. This Act may be cited for all purposes as the Transvaal Police Act 1908 and shall come into operation, as to section *nine*, on the date of its first publication as an Act in the *Gazette*, and, as to the remainder, on a date to be fixed by the Governor by proclamation in the *Gazette*.

—  
*SCHEDULE.*

Proclamation No. 24 of 1900	...	...	...	...	...	The whole.
Proclamation No. 1 of 1901	...	...	...	...	...	The whole.
Proclamation No. 15 of 1901	...	...	...	...	...	The whole.
Ordinance No. 10 of 1906	...	...	...	...	...	The whole.

\* The Act was first published in the *Gazette* on the 28th July, 1908, and came into operation 1st August, 1908: see Proc. No. 65 (Admn.) of 1908 (*Gazette*, 29th July, 1908, p. 449).

Act No. 6 of 1908.]

[Promulgated 10th August, 1908.]

## AN ACT

TO INCREASE CUSTOMS DUTIES ON CERTAIN ARTICLES AND TO AMEND THE CUSTOMS TARIFF AND CUSTOMS LAW OF THIS COLONY IN OTHER RESPECTS.

Assented to 3rd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Section *six* of the Customs Amendment Ordinance, 1906, shall be and is hereby amended—

Amendment to section *six* of Ordinance No. 4 of 1906

(1) by the deletion of paragraph (*b*) and the substitution therefor of the following provision:—

*For text see Ordinance No. 4, 1906, section six (b).*

(2) by the deletion of paragraph (*d*) of the said section and the substitution therefor of the following provision:—

*For text see Ordinance No. 4, 1906, section six (d).*

(3) by the addition to the said section of the following new paragraph (*e*):—

*For text see Ordinance No. 4, 1906, section six (e).*

2. Section *eight* of the Customs Amendment Ordinance, 1906, shall be and is hereby repealed and the following provision substituted therefor:—

Definition of value on which *ad valorem* duties are to be paid.

*For text see Ordinance No. 4, 1906, section eight.*

3. Section *nine* of the Customs Amendment Ordinance, 1906, shall be and is hereby amended by the deletion from the said section of all words after the words "persons licensed to deal in spirituous liquors."

Amendment of section *nine* of Ordinance No. 4 of 1906.

4. The Schedule to the Customs Amendment Ordinance, 1906, shall be and is hereby amended in manner set forth in the Schedule to this Act.

Amendment to Schedule of Ordinance No. 4 of 1906.

\* 5. This Act may be cited for all purposes as the Customs Amendment Act, 1908, and shall come into operation—

Title and date of coming into operation of Act.

(*a*) as regards any articles on which Customs duty is hereby increased, on the twenty-fourth day of June, 1908; and

(*b*) in other respects on a date to be fixed by the Governor by Proclamation in the *Gazette*.

\* The Act came into operation 15th Aug., 1908 : see Proc. No. 67 (Admn.) of 1908 (*Gazette*, 14/8/08, p. 551).

## SCHEDULE.

## CLASS I.

Item 1 shall be deleted.

Item 4 shall be deleted and the following substituted therefor:—

*For text see Schedule to Ordinance No. 4, 1906, Class I, item 4.*

Item 17 (b) shall be deleted and the following substituted therefor:—

*For text see Schedule to Ordinance No. 4, 1906, Class I, item 17 (b).*

Item 37 (b), the word "glucose" shall be inserted immediately after the word "saccharum."

Item 40 shall be deleted and the following substituted therefor:—

*For text see Schedule to Ordinance No. 4, 1906, Class I, item 40.*

## CLASS III.

Item 52, the words "not including riding saddles" shall be deleted.

Item 56 shall be deleted and the following substituted therefor:—

"Item 56, shawls, woollen."

## CLASS IV.

Item 74, the word "glucose" shall be deleted.

Item 105, the word "chloride" shall be deleted.

Item 117, the words "in bulk" shall be deleted.

Item 121, the words "and zinc fume, dust, and shavings" shall be added at the end of the item.

Item 126, the words "and fruit tree netting" shall be added at the end of the item.

## CLASS V.

Item 131, the words "patent medicines and sulphuric acid" shall be inserted immediately after the word "beer."

Item 139, the words "boracic acid" shall be inserted immediately after the word "borax" and the words "in bulk" deleted.

Item 144, the word "copra" shall be inserted immediately after the word "cotton."

Item 147 shall be deleted and the following item substituted therefor:—

*For text see Schedule to Ordinance No. 4, 1906, Class V, item 147.*

Item 159 shall be deleted and the following item substituted therefor:—

*For text see Schedule to Ordinance No. 4, 1906, Class V, item 159.*

Item 161, the words "and platinum wire" shall be added.

Item 172, the word "rennet" shall be inserted immediately after the word "virus."

Act No. 7 of 1908.] [Promulgated 10th August, 1908.

AN ACT

TO APPLY A SUM NOT EXCEEDING ONE THOUSAND ONE HUNDRED AND NINETY POUNDS TWO SHILLINGS AND ONE PENNY STERLING, FOR THE PURPOSE OF MEETING AND COVERING CERTAIN UNAUTHORISED EXPENDITURE.

Assented to 3rd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The public revenue of this Colony is hereby charged with the sum not exceeding One thousand one hundred and ninety pounds two shillings and one penny sterling to meet certain expenditure over and above the amounts voted or appropriated for the service of the financial year which ended the thirtieth day of June 1907. Such expenditure is described on page xiv of the Report of the Auditor-General of this Colony on the Accounts of the Colony for the financial year 1906-07, and is further specified in the Schedule to this Act.

2. This Act may be cited as the Unauthorised Expenditure (1906-07) Act 1908, and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Revenue charged with £1,190 2s. 1d. unauthorised expenditure of the year which ended 30th June, 1907.

Title and date of operation of Act.

SCHEDULE.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
XXXII.	Lands .. .. .	Secretary for Lands	£ s. d. 501 10 9
XXXVI.	Agriculture and Forests	Director of Agriculture	688 11 4
		TOTAL ..	£1,190 2 1

\* This date was the 10th Aug., 1908.

Act No. 8 of 1908.] [Promulgated 10th August, 1908.]

\* AN ACT

TO RATIFY CERTAIN CONVENTIONS ENTERED INTO BY THE GOVERNMENT OF THIS COLONY WITH THE GOVERNMENT OF THE ORANGE RIVER COLONY RELATIVE TO THE JOINT WORKING OF THE RAILWAYS IN EACH SUCH COLONY AND TO MAKE PROVISION FOR OTHER MATTERS CONSEQUENT UPON THE TERMINATION OF THE INTER-COLONIAL COUNCIL.

Assented to 5th August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The conventions entered into between the Government of this Colony and the Government of the Orange River Colony dated the first day of June, 1908, and set forth respectively in the First and Second Schedules to this Act, are hereby ratified and confirmed.

2. (1) The Railway Administration known as the Central South African Railways, which will be carried on and worked in terms of the convention set forth in the First Schedule to this Act, shall be in this Colony a body corporate and, under the name of the Central South African Railways, shall be capable in law of suing and being sued, of acquiring, holding, and alienating movable and immovable property and all rights incidental to or in connection therewith, and of doing and performing all such acts and things as bodies corporate may by law do, subject to any law relating to the regulation and working of the railways administered by it and to the provisions of the said convention.

(2) All agreements, powers of attorney, and other written documents executed or signed during the continuance of the said convention shall be valid and effectual if executed or signed on behalf of such Administration by the chairman of the Railway Board described in the said convention, and on the authority of the said Board, or by any person lawfully acting on its behalf.

3. Anything in the Transvaal Constitution Letters Patent 1906 notwithstanding, all the revenues of the said Railway Administration from whatever source arising within this

\* As to notice *re* termination of Inter-Colonial Council, see Govt. Notice No. 492, 1908 (*Gazette*, 29/5/08); for Convention between Transvaal and O.R.C., see Govt. Notice No. 522, 1908 (*Gazette*, 9/6/08), see also Act No. 10, 1909; for Agreement *re* division of traffic between Cape, Natal, and C.S.A.R. Administrations, see Govt. Notice No. 664 of 1909 (*Gazette*, 18/6/09), see South Africa Act, 1909, Chapter VII.

Ratification of Conventions set forth in First and Second Schedules.

Incorporation of Railway Administration.

Appropriation of railway revenue to railway purposes.

Colony shall, during the continuance of the convention set forth in the said First Schedule, be appropriated to the purposes, and in the manner, and by the Board, in such convention described.

4. (1) Notwithstanding the termination of the Inter-Colonial Council on the second day of June, 1908, the Estimates of Expenditure approved by the said Council in respect of the services of the financial year 1907-08 shall remain of as full force and effect as if the said Council had continued to exist.

(2) The Colonial Treasurer and all other persons concerned

(a) in the issue of any moneys in pursuance of such Estimates; or

(b) in the collection, custody, and expenditure, up to the date of the coming into operation of this Act, of such revenues and other receipts as were heretofore collected or expended by the said Council; or

(c) in carrying on the administration of the Central South African Railways in accordance with the convention set forth in the said First Schedule; or

(d) in the doing of all acts necessary for winding up the affairs of the said Council after the second day of June, 1908;

shall be and are hereby indemnified in respect of such acts or matters as fully and effectually as if all such acts and matters had been in all respects lawful.

\* 5. This Act may be cited for all purposes as the Inter-Colonial Conventions Ratification Act 1908 and shall not come into operation unless and until the Governor shall, by proclamation in the *Gazette*, declare that it is His Majesty's pleasure not to disallow the Act, and thereafter it shall come into operation on such date as the Governor may by like proclamation declare.

Indemnification of Treasurer and other persons concerned in issue, collection and expenditure of revenues of Inter-Colonial Council, etc., after 2nd June, 1908.

Title and date of operation of Act.

FIRST SCHEDULE.

CONVENTION PROVIDING FOR THE JOINT WORKING AND ADMINISTRATION OF THE RAILWAYS IN THE TRANSVAAL AND ORANGE RIVER COLONY.

Convention made and entered into by and between William Waldegrave, Earl of Selborne, a Member of His Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, and Governor of The Transvaal, and as such acting for and on behalf of the Government of The Transvaal (hereinafter referred to as "the Transvaal Government") of the one part and Hamilton Goold-Adams, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Most Honourable Order of the Bath, Governor of the Orange River Colony, and as such acting for and on behalf of the Government of the Orange River Colony (hereinafter referred to as "the Orange River Colony Government") of the other part.

Witnesseth: That whereas by a Convention (hereinafter called "the First Convention") made between the parties hereto and bearing even date herewith, provision has been made for the termination of the Inter-Colonial Council

\* For Royal Assent and date of operation (21st November, 1908), see Proc. (Admn.) No. 98 of 1908.



(hereinafter referred to as "the Council") and for the apportionment and division between the Governments of The Transvaal and of the Orange River Colony of all the property administered by or on the advice of the Council and all its rights and liabilities in connection therewith in pursuance of the Transvaal Constitution Letters Patent 1906 and of the Orange River Colony Constitution Letters Patent 1907 :

And whereas the Governments of the said Colonies have agreed that from and after the termination of the Council the Railways now administered and worked by or on the advice of the Council shall be administered and worked as one system subject to the provisions of this Convention, and shall continue to be known as the Central South African Railways :

Now, therefore, the parties to this Convention do hereby covenant and agree with each other in manner following, that is to say :

1. On the second day of June 1908 each Colony shall bring in and hand over for the purposes of this Convention to the Railway Board hereinafter provided for (and hereinafter referred to as "the Board") all railways, railway equipment, and other railway assets, and all rights and liabilities in connection therewith, which were apportioned to it under the First Convention, and the same shall be recorded in the books and accounts of the Central South African Railways (hereinafter referred to as "the Administration"); and the Board shall carry on the undertaking of the railways now administered and worked by or on the advice of the Council, exercise all financial powers in connection with the Administration which were exercisable by the Treasurer or other officer of the Council prior to its termination in respect of such railways, satisfy all lawful claims subsisting against, and enforce all lawful rights belonging to such railways at such date, and prosecute or defend all legal proceedings in respect of such claims or rights; and all such claims as remain unsatisfied and all such rights as the Board is unable to enforce shall in the books and accounts to be kept in manner hereinafter provided be adjusted between the two Colonies in the proportions of their several interests in such accounts under this Convention.

2. On and after the second day of June 1908 the railways now administered and worked by or on the advice of the Council shall be administered and controlled as one railway system by a Board consisting of five persons, three of whom shall be nominated by the Transvaal Government and two by the Orange River Colony Government. Of the three nominated by the Transvaal Government two at least shall be Ministers and of the two nominated by the Orange River Colony Government one at least shall be a Minister, and any vacancy on the Board shall from time to time be filled by the Government which appointed the vacating member.

It shall be competent for the Governments of the two Colonies by mutual consent to reduce the number of the members of the Board from five to three, and if the Board is so reduced, one representative of each Colony to be named by the respective Governments shall retire.

3. The Government of either Colony may from time to time revoke any nomination to the Board made by it, and, subject to the provisions of article two, nominate another person in place of the person whose nomination is so revoked.

4. The Board shall at its first meeting elect one of its members to be Chairman who shall hold office for one year but may be re-elected. He shall preside at all meetings of the Board; and when the votes are equal he shall have a casting vote in addition to his deliberative vote. In the interval between meetings of the Board the Chairman shall have power to authorise such acts as are necessary for the administration of the railways, but he shall consult by correspondence or otherwise the other members of the Board on all matters of importance.

5. In case any member of the Board shall at any time be incapacitated through illness or otherwise from attending a meeting or meetings of the Board, the Government which nominated such member may nominate another person to act as a member of the Board during such incapacity and the person so temporarily nominated shall be entitled to attend meetings of the Board and to vote thereat until such time as the incapacitated member resumes his duties on the Board. Whenever for like reasons the Chairman is incapacitated from exercising his functions under this Convention the members of the Board for the time being shall elect one of their number to act as Chairman.

6. The quorum of the Board shall be three members if the Board consists of five; and two members if the Board consists of three. The quorum shall always include the Chairman or Acting Chairman.

7. The headquarters of the Administration shall be in Johannesburg. The ordinary meetings of the Board shall be held at the headquarters unless it shall be otherwise decided from time to time by the Board.

8. The Board shall hold an ordinary meeting not less than once every month, and such extraordinary meetings as may be necessary for the proper conduct of its business. The meetings of the Board shall take place on such dates as the Board may determine. Due notice of all meetings shall be given to every member.

9. The Board shall appoint a *domicilium citandi et executandi* in Bloemfontein where all legal process directed against the Administration in the Orange River Colony may be served.

10. Without prejudice to the general powers of administration and control vested in the Board by article two hereof and the other powers herein conferred, it is hereby expressly declared that the Board shall have the following powers, that is to say, power

- (a) to enter into agreements with any Government or any person or body of persons whether corporate or unincorporate, and whether in The Transvaal or the Orange River Colony or elsewhere in connection with matters affecting or incidental to the administering or the working or the control of any railways and other works;
- (b) to acquire or to construct or to negotiate with any Government, or person or body of persons whether corporate or unincorporate, for the acquisition or construction of lines of railway, and to complete arrangements concerning the same subject to ratification by the Parliament or Parliaments of the Colony or Colonies in which the line is situate or to be constructed, or if the line be wholly within one Colony, subject to the ratification only of the Parliament of that Colony; but such ratification shall not be necessary with reference to sidings or short branch lines to mines and other works if the cost of such sidings or branch lines does not exceed fifty thousand pounds in any one case;
- (c) to fix and alter from time to time the rates and fares and other charges on the railways;
- (d) to acquire by purchase, lease, expropriation or otherwise land, servitudes, water or other rights for railway purposes, and to procure proper registration thereof in the Colony, in which such land, servitudes or rights are situate;
- (e) to appoint and at their discretion to remove or suspend such officers and servants as may from time to time be necessary and to fix and determine their duties, salaries and emoluments;
- (f) to appoint attorneys or agents for the conduct of any portion of the Administration's business;
- (g) to control the finances of the Administration, and to prepare the Railway Budget hereinafter referred to;
- (h) to enter into all such negotiations and contracts and rescind and vary all such contracts, and generally to execute and do all such acts, deeds and things for and on behalf of the Administration as it may consider expedient for or in relation to any of the matters aforesaid, or for the better carrying out of the objects and purposes of this Convention.

11. Each Government undertakes to introduce and cause to be passed into law by the Parliament of its Colony at a session thereof during the present calendar year a Bill providing that the Administration shall be a body corporate with power to sue and be sued in its corporate name, to hold property and do all such other acts and things as bodies corporate may by law do, and to further provide that all agreements, powers of attorney, and other written documents shall be valid and effectual if made and signed on behalf of the Administration by the Chairman or any person lawfully acting on his behalf.

12. The Railways shall be managed by a General Manager who shall have charge of the whole of the Railways under the directions and instructions from time to time given by the Board or by the Chairman.

13. The General Manager shall submit an annual report to the Board, to be laid before the Parliaments of both Colonies, through their respective Governments, dealing with the state of traffic, with the approximate cost and earnings in respect of goods and passengers respectively carried during the previous year, with the general condition of the lines and accommodation for the traffic, and generally with such other matters as may be deemed expedient.

14. There shall be an Auditor for the Railways who shall be appointed and removable by the Governments of both Colonies and may be suspended on the ground of incompetence or misbehaviour by the Board, subject to confirmation by the Governments of the two Colonies.

15. The Board shall require the Auditor to submit an annual report with regard to the previous financial year and such report shall be laid before the Parliaments of both Colonies through their respective Governments. Such report shall certify that the Auditor has examined the balance-sheet of the Administration and the accounts connected therewith, and that he has satisfied himself that the regulations with regard to the audit of and accounting for and recording of railway revenues have been properly observed, and that in his opinion the balance-sheet and accounts are correct.

He shall also report to the Board from time to time whether in his opinion the checks for the time being observed are sufficient or otherwise; he shall further report upon such other matters as the Board may from time to time require.

The Board shall have power to prepare regulations not inconsistent with this Convention for more particularly defining the scope of the Auditor's duties. Such regulations shall become operative only when approved by the Governments of both Colonies.

16. (a) The books and accounts of the Administration shall be kept in such manner as to reflect from time to time the respective interests of The Transvaal and Orange River Colony in the assets and obligations of the Administration, and on the termination of this Convention such interests shall be apportioned between the two Colonies accordingly.

(b) Rolling stock provided from or after the first day of July 1908 shall be apportioned from time to time in the books and accounts of the Administration, as to engines on the average engine mileage in the two Colonies and as to other rolling stock on the average vehicle mileage for the several descriptions of rolling stock.

17. Each Government agrees that the other Government may instruct its Auditor-General from time to time to investigate the books and accounts of the Administration and to examine its records, in order to ascertain whether an accurate account of the respective interests and obligations of each Colony is kept.

18. (a) The profits of the Administration which shall remain after provision has been made out of the railway earnings for working, administration, maintenance and for interest, redemption and other charges upon railway capital and other necessary expenditure shall, so far as the same extend and subject to any legitimate prior charge be applied to the payment of the interest, sinking fund and management charges of that portion not included in the railway capital account of the loan raised under the Transvaal Guaranteed Loan Ordinance 1903.

(b) If the railway earnings are not sufficient to cover the working and other necessary expenditure referred to in paragraph (a), then the Government of each Colony shall make good the shortfall in proportion to the amount of its interests in the railway capital account as existing during the year of such shortfall.

(c) If the railway earnings are sufficient to cover such working and other necessary expenditure referred to in paragraph (a) but there are no profits or the profits are not sufficient to meet the whole of the interest, sinking fund payments and management charges on the portion above referred to of the said loan the deficiency shall be made good by each Colony in proportion to the share of the Guaranteed Loan for which it is liable under the First Convention.

(d) If the profits after providing for the working and other necessary expenditure are more than sufficient to cover the whole of the interest, sinking fund payments, and management charges upon such portion of the loan, the surplus shall be devoted to the purposes of the Administration.

19. The Railway Estimates of Revenue and Expenditure shall be prepared annually by the Board after consultation with the Governments of both Colonies and shall through the Government of each Colony be laid on the tables of both Houses of Parliament of each Colony during its ordinary session. Each Government undertakes to introduce and cause to be passed into law as soon as possible after the date of this Convention a Bill providing that notwithstanding anything in the Constitution Letters Patent of the two Colonies the revenues of the Administration shall during the existence of this Convention be appropriated in accordance with the last preceding article and pending such legislation the Government of each Colony agrees that such revenues shall be so appropriated.

20. The Board shall make adequate provision in the Railway Budget for Renewals and Betterment.

21. (a) Neither Government shall during the existence of this Convention construct or sanction the construction of any line of railway in its territory which in the opinion of the Board is likely to compete with any line or lines of the Administration; the Board shall be the sole judge as to whether any contemplated line is likely so to compete.

(b) If one Government desires to construct or sanction the construction of a line which in the opinion of the Board is not likely to compete with any line or lines of the Administration but which the Board does not wish to construct upon joint account, such Government may construct such line or arrange for its construction either by private enterprise upon terms approved by the Board, or by the Board. In the event of its construction by the Board, the funds necessary therefor shall be found by such Government and the line shall be constructed and worked by the Board at the risk and cost of that Government. Such Government shall receive the revenue earned by the line after payment of the working expenses and other charges, and shall be liable for interest and redemption on the capital cost of the line. Such Government shall also make good to the Board quarterly any shortfall of working expenses and other charges if the revenue derived from any such line is insufficient to meet the costs of its working and other expenses incidental thereto. Upon the statement of the Chief Accountant of the Administration the payment of such shortfall, whether estimated or actual, shall forthwith be made, subject to any adjustment when the accounts are finally certified by the Auditor for the Railways.

(c) The Board shall have the right at any time to take over and work upon joint account any line or lines constructed by or on behalf of either Government. Every agreement for the construction of any line by private enterprise shall contain a condition reserving the right of expropriation thereof or, in the case of a line constructed or acquired by either Government, a condition for its incorporation in the railways of the Administration.

22. Each Government undertakes to use its utmost endeavours to secure uniformity in all legislation affecting railways in its territory. To secure that object no Bill prejudicially affecting or imposing burdens or restrictions upon railways in their working or management shall be introduced by or receive the support of the Government of one Colony without the consent of the Government of the other Colony, and in the event of the Government of that Colony giving such consent, it shall undertake to introduce into and cause to be passed into law by the Parliament of that Colony a Bill as far as possible simultaneously with the introduction of the Bill in the Parliament of the other Colony and in terms similar to those of such Bill.

23. All Conventions and Agreements made and entered into by or on behalf of the Central South African Railways prior to the date of the First Convention, with any Government, or person or body of persons, corporate or unincorporate, having reference to the railways in both Colonies or either of them shall during the continuance of this Convention be respected, observed, and carried into effect by the Board; and on the termination of this Convention every such Convention or Agreement shall be taken over and respected by the Colony to which it directly applies, and the parties thereto shall do such matters and things as may be reasonably necessary for carrying the provisions of this article into effect.

24. This Convention shall come into force from the second day of June 1908 and shall continue of full force and effect for a period of four years reckoned from such day and shall be continued, subject to at least twelve months' notice (expiring on the thirtieth of June in any year), to be given at any time after the said period of four years by the one party to the other, of its intention to terminate this Convention.

25. If this Convention be terminated and any point of dispute arises which cannot be settled by agreement between the two Governments, it shall be settled by arbitration. Each party shall choose an arbitrator and the Chief Justice of the Cape Colony shall be the umpire on such arbitration or failing him, a person to be nominated by the Secretary of State for the Colonies shall be the umpire.

26. This Convention and the Convention of even date herewith providing for the payment of pensions or gratuities to persons employed in services administered by or on the advice of the Council and for the apportionment and division between The Transvaal and Orange River Colony of liability for such

pensions and gratuities shall be deemed to be inter-dependent, and both shall be submitted together to the Parliament of each Colony for ratification.

Thus done under my hand  
under the Public Seal of  
The Transvaal on behalf  
of the Government of The  
Transvaal this first day  
of June, 1908, in the  
presence of

Witnesses :

- (1) D. O. MALCOLM,  
*Private Secretary.*
- (2) A. E. ERSKINE,  
*Acting Military Secretary.*

SELBORNE,  
*Governor of the Transvaal.*

Thus done under my hand  
under the Public Seal of  
the Orange River Colony  
on behalf of the Govern-  
ment of the Orange River  
Colony, this first day  
of June, 1908, in the  
presence of

Witnesses :

- (1) A. FISCHER,  
*Prime Minister of the  
Orange River Colony.*
- (2) COURTENAY SHAW,  
*Private Secretary to the  
Governor of the Orange River Colony.*

HAMILTON GOOLD-ADAMS,  
*Governor of the Orange River Colony.*

SECOND SCHEDULE.

CONVENTION PROVIDING FOR THE PAYMENT OF PENSIONS OR GRATUITIES TO PERSONS EMPLOYED IN SERVICES ADMINISTERED BY OR ON THE ADVICE OF THE INTER-COLONIAL COUNCIL AND FOR THE APPORTIONMENT AND DIVISION BETWEEN THE TRANSVAAL AND ORANGE RIVER COLONY OF LIABILITY FOR SUCH PENSIONS AND GRATUITIES.

Convention made and entered into between William Waldegrave Earl of Selborne, a Member of His Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, and Governor of The Transvaal, and as such acting for and on behalf of the Government of The Transvaal (hereinafter referred to as the Transvaal Government) of the one part, and Hamilton Goold-Adams, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, Companion of the Most Honourable Order of the Bath, Governor of the Orange River Colony, and as such acting for and on behalf of the Government of the Orange River Colony (hereinafter referred to as the Orange River Colony Government) of the other part.

Witnesseth : That whereas by a Convention of even date herewith and made between the parties hereto (and hereinafter referred to as the First Convention) provision is made for the apportionment and division between The Transvaal and the Orange River Colony of all the property administered by or on the advice of the Inter-Colonial Council on the termination of such Council and all its rights and liabilities in connection with such property :

And whereas by a further Convention of even date herewith and made between the parties hereto (and hereinafter referred to as the Second Convention) provision is made for the joint working and administration for a period therein mentioned of the railways in The Transvaal and Orange River Colony ;

And whereas certain liabilities in respect of pensions or gratuities have become due and payable, or will become due and payable in respect of certain persons who were, or will be up to the second day of June, 1908, in employment under such Council and it is desirable to make provision for satisfying such liabilities after the termination of such Council, and to make further provision for the payment of certain other pensions, gratuities, and benefits hereinafter referred to ;

Now therefore the parties to this Convention hereby covenant and agree each with the other in manner following that is to say :—

1. In this Convention and in the Annexure hereto unless inconsistent with the context—

“old Administration” shall mean the Railway Administration of the Central South African Railways as existing prior to the second day of June 1908 and shall include the Imperial Military Railway Administration ;

“new Administration” shall mean the Joint Railway Administration to be constituted in accordance with the Second Convention to work and manage the railways heretofore known as the Central South African Railways and which will hereafter be known by the same name ;

“employment under the Council” shall mean and include employment in the old Administration or in the South African Constabulary, or in any department or office heretofore or up to the second day of June 1908 administered by or on the advice of the Inter-Colonial Council ;

“Railway Commission’s Report” shall mean the Report presented to His Excellency the High Commissioner and dated the fourteenth day of March 1908 of the Commission described in Government Notice No. 627 of 1907 dated thirty-first day of May, 1907.

2. In calculating the liabilities in respect of pensions or gratuities payable to or in respect of any person in terms of this Convention or the Annexure thereto, or to any person previously in employment under the Council, and transferred to employment under either Government, a continuous period of employment of such person by either Government or by the new Administration following upon or preceding without interruption a continuous period of employment under the Council shall be deemed to be one continuous period of employment of such person.

3. (a) The termination of the Council shall not affect the continuance of the payment of any pension which, prior to the date of this Convention, has been granted to or in respect of a person on his retirement from employment under the Council.

(b) The two Governments accept liability to continue the payment of any such pension in the proportions described respectively in article *five* hereof according as the person to whom the pension is payable falls within the terms of paragraph (a) or paragraph (b) of that article ;

Provided that any such pension if granted to a member of the South African Constabulary in respect of his service therein prior to the first day of July 1902 shall be charged on the grant-in-aid which was made by the Imperial Government to meet the liability for that class of pension and which by Schedule B to the First Convention is allocated to the Transvaal Government, and if the amount of such grant-in-aid be not sufficient to meet the liability for all pensions of that class, the deficiency shall be charged on the revenues of The Transvaal.

4. (a) In respect of a person who will retire from employment under the Council by reason of a reduction in or reorganization of a department consequent on the termination of the Council such pension or gratuity shall be granted as would have been paid if the Council had continued to exist.

(b) The two Governments accept liability to pay any such pension or gratuity in the proportions described respectively in article *five* hereof according as the person to whom the pension or gratuity is payable falls within the terms of paragraph (a) or paragraph (b) of that article.

5. (a) A pension or gratuity granted after the second day of June 1908 to a person in respect of a period of employment with both the old and the new Administration, or with the new Administration only shall (save in the case of pensions and other benefits payable from the Railway Superannuation Fund mentioned in article *six* hereof) be charged during the continuance of the Second Convention on the revenues of the new Administration, and upon the termination of the Second Convention shall be charged on the revenues of each Colony in manner following—

- (i) in respect of a period of employment under the old Administration, in the proportion of the total contributions which were respectively made by each Colony to meet the annual deficits of the Council ;
- (ii) in respect of a period of employment under the new Administration, in the proportion of the respective interests of each Colony in the railway capital account as shewn at such termination.
- (b) A pension or gratuity granted after the second day of June to a person other than is described in paragraph (a) of this article shall, in respect of a period of employment under the Council be charged on the revenues of each Colony in the proportions of the total contributions which were respectively made by each Colony to meet the annual deficits of the Council.
6. (a) There shall be formed a Railway Superannuation Fund in accordance with Appendix E of the Railway Commission's Report or such modification thereof as the two Governments may make before giving effect thereto.
- (b) A pension or other benefit to a person who will become a member of the Railway Superannuation Fund referred to in this article shall be charged upon that Fund.
- (c) A quinquennial valuation of the Fund shall be made by an approved actuary and if such valuation shall disclose a surplus beyond the requirements likely to arise under the regulations of the Fund the benefits shall be increased or the contributions shall be reduced in such manner as each Government and four-fifths of the members of the Fund shall agree ; and if such valuation shall disclose a deficiency the same shall be met if necessary in such fair and equitable manner as may appear to the two Governments to be reasonable, but so that no person who has received benefits from the Fund shall be called upon to refund any portion of such benefits.
7. Upon the termination of the Second Convention—
- (a) the Railway Superannuation Fund to be formed under article six shall be continued as if such Convention had not terminated ;
- (b) each Government agrees to collect from those members of the Fund who are from time to time in its railway employment the contributions severally due from them under the regulations of the Fund and to pay the same monthly to the Fund together with its own contributions under the regulations of the Fund. Each Government further agrees to be responsible for the liabilities under the Fund of the new Administration in respect of interest, management and other charges in the proportions of the total amount which each Government contributes in respect of members of the Fund who are from time to time in its railway employment ;
- (c) each Government undertakes that it shall be a condition of its railway employment that membership of the Fund be obligatory except in so far as the Regulations of the Fund shall prohibit such membership, or provide for such membership being optional.
8. Each Government undertakes to introduce into and cause to be passed into law by the Parliament of its Colony at a session thereof during the present calendar year a Bill or Bills giving effect to the undertakings entered into with each other by this Convention and granting to the officers described in the Annexure hereto pensions or gratuities on a scale and under conditions in such Annexure set forth.
9. This Convention and the Second Convention shall be deemed to be inter-dependent, and both shall be submitted together to the Parliament of each Colony for ratification.

Thus done under my Hand  
and the Public Seal of  
The Transvaal on behalf  
of the Government of  
The Transvaal this First  
day of June 1908 in the  
presence of

Witnesses :

- (1) D. O. MALCOLM,  
*Private Secretary.*
- (2) A. E. ERSKINE,  
*Acting Military Secretary.*

SELBORNE,  
*Governor of The Transvaal.*

Thus done under my Hand  
and the Public Seal of  
the Orange River Colony  
on behalf of the Govern-  
ment of the Orange River  
Colony this First day of  
June 1908 in the pre-  
sence of

HAMILTON GOULD-ADAMS,  
*Governor of the Orange River Colony.*

Witnesses :

(1) A. FISCHER,  
*Prime Minister of the  
Orange River Colony.*

(2) COURTENAY SHAW,  
*Private Secretary to the  
Governor of the Orange River Colony.*

-----  
*Annexure.*  
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SCALE AND CONDITIONS OF PENSIONS OR GRATUITIES TO OFFICERS TO BE  
PROVIDED FOR IN BILLS.

1. "*Transferred Cape Railway Officer*" in which term is included a person who was transferred under competent authority to the old Administration from the Cape Civil Service, or the Cape Government Railways, or the Cape Colony Harbour Boards, or the Orange Free State Government Railways, and who was a contributor to a pension fund while in any such service, board or railway.

Every such person shall receive a pension on the scale and under the conditions contained in Appendix F to the Railway Commission's Report with the following modifications :—

- (a) Adequate provision shall be made for continuing such rights in respect of pensions to widows as were possessed by such person while in the employment of the Cape Civil Service, the Cape Government Railways, the Cape Colony Harbour Boards, or of the Orange Free State Railways, and such provisions shall be made on the lines laid down in sections *fifty-eight to sixty-seven, sixty-nine, seventy-one, seventy-two, seventy-four and seventy-five* of Act No. 32 of 1895 of the Cape Colony ;
  - (b) No such reduction in salary as is referred to in paragraph *twelve* of Appendix F of the Railway Commission's Report shall be made so as to diminish the salary of such officer below the amount drawn by him immediately after his transfer to the employment of the old Administration.
  - (c) Whenever the salary of such officer is reduced within ten years of the age of retirement prescribed for him in the said Appendix F, it shall be assumed for the purpose of calculating the pension of such officer that his salary has not been reduced, provided he continues to make the same contributions as he would have made if his salary had not been reduced ;
  - (d) Whenever such temporary pension as is referred to in paragraph *twelve* of the said Appendix F has been continued for a period of five years. no such officer shall be recalled to duty ;
  - (e) Such other minor modifications as may be agreed to by the Governments.
2. "*Transferred Constabulary Officer*" in which term is included a member of the South African Constabulary—
- (a) who was transferred thereto under competent authority from pensionable employment in another Government or Administration ;
  - (b) who was previously in the pensionable employment of another Government or Administration and who enlisted in or was appointed to the South African Constabulary,
- under agreement that the period of such pensionable employment would be reckoned as employment with such Constabulary for the purposes of pension.



Such member shall be entitled to count his employment under the Council as continuous with his previous pensionable employment and shall also be entitled to the benefits provided in the Police Pension Law of the Colony in the police force of which he has been enrolled or pending the enactment of such law or if such law is less favourable than the pension regulations of the South African Constabulary approved by the Inter-Colonial Council on the second day of June 1906 and set forth in Schedule C to the Minutes of the Meeting of the Council in 1906, then to the benefits described in such regulations.

3. "*Other transferred Officer*" in which term is included the Auditor to the Inter-Colonial Council and the Statistician of the old Administration.

These officers shall be deemed to be serving under the same conditions as regards pension as those applicable to them while in the Imperial Service and shall be entitled to count their period of employment in the Imperial Service as portion of their period of employment under the Council subject to an adjustment with the Imperial Government of a proportionate share of contribution towards such pension.

4. "*Non-transferred Railway Officer*" in which term is included a person in the employment of the new Administration other than those described in Items 1 and 3 of this Annexure.

Such person shall have the option of joining the Railway Superannuation Fund, and if he does so join shall receive the benefits provided in the regulations of the Fund.

5. "*Non-transferred Constabulary Officer*" in which term is included a member of the South African Constabulary other than is described in Item 2 of this Schedule who may in consequence of the abolition of the South African Constabulary become enrolled in any police force in The Transvaal or Orange River Colony.

Such member shall be entitled to the benefits provided in the Police Pension Law of the Colony in the police force of which he has been enrolled or, pending the enactment of such law, to the benefits provided in the pension regulations of the South African Constabulary approved by the Inter-Colonial Council on the 2nd day of June 1906 and set forth in Schedule C to the Minutes of the Meeting of the Council in 1906.

6. "*Non-transferred Inter-Colonial Council Officer other than a Railway or Constabulary Officer,*" in which term is included a person in employment under the Council not referred to in Items 1 to 5 of this Annexure.

(a) Such person if absorbed into the public service of The Transvaal or Orange River Colony shall be subject to the laws or regulations of the Colony into the service of which he has been absorbed and to any benefits arising therefrom ;

(b) if absorbed into the service of the new Administration shall be subject to the laws or regulations of the new Administration and to any benefits arising therefrom.

7. "*Persons transferred to Services other than those of the Transvaal or the Orange River Colony or the new Administration.*" Any person possessing pensionable rights who has entered pensionable employment under a Government or Administration other than the new Administration or the Transvaal Government or the Orange River Colony Government shall be entitled to calculate the period of his employment under the Council subject to any arrangement between the new Administration the Transvaal Government or the Orange River Colony Government (as the case may be) on the one hand and the Government or Administration whose service such person enters on the other hand, as to the respective shares payable of the pension due to such person on his ultimate retirement.

SELBORNE.

*As witnesses :*

D. O. MALCOLM,  
*Private Secretary.*

A. E. ERSKINE,  
*Acting Military Secretary.*

HAMILTON GOOLD-ADAMS,

*Governor.*

*As witnesses :—*

A. FISCHER.  
COURTENAY SHAW.

1st June, 1908.

Act No. 9 of 1908.]

[Promulgated 10th August, 1908.]

## AN ACT

TO AMEND THE LAW RELATING TO THE TAXATION OF NATIVES.

Assented to 5th August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The Native Tax Ordinance 1902 and the Native Tax Amendment Ordinance 1906 shall be and are hereby repealed.

Repeal of laws.

2. In this Act, unless inconsistent with the context;

Interpretation of terms.

“adult” shall mean a male native apparently of the age of eighteen years or upwards;

“collector” shall mean a person duly authorized to collect the tax;

“farm” shall mean any area of land registered as such in the Deeds Office, and shall include a portion of a farm;

“farm labourer” shall mean an adult who resides on a farm and is *bona fide*, but not necessarily continuously, employed by the proprietor thereof in domestic service or farming operations; provided that—

(a) if he resides on one farm and is employed on another farm of the same proprietor, he shall be deemed to have resided and to have been employed on one and the same farm;

(b) he shall not be deemed to be *bona fide* employed unless ninety days' service at least, on the farm occupied by the proprietor or on another and adjoining farm of the proprietor, has been rendered during the twelve months immediately preceding the date upon which demand is made for payment of the tax under this Act, and no rent is paid or valuable consideration of any kind, other than service, given by him to the proprietor in respect of residence on the farm;

“Governor” shall mean the officer for the time being administering the Government of this Colony, acting by and with the advice of the Executive Council thereof;

“imprisonment” shall mean imprisonment, with or without hard labour, as the court, which passes sentence, may determine;

“magistrate” shall mean a resident or assistant resident magistrate;

- “municipal location resident” shall mean an adult who produces upon demand of a collector a certificate signed by the superintendent, inspector, or other officer of a location under the control of a local authority to the effect that he has, during the preceding twelve months, occupied as owner or rented a stand in such location and has paid all rent and other charges due to the local authority in respect of, or incidental to, his residence in such location;
- “native” shall mean a person both of whose parents belong to an aboriginal race or tribe of Africa South of the Equator;
- “native commissioner” shall include a native sub-commissioner;
- “prescribed form” shall mean the form prescribed by regulation;
- “proprietor” shall mean the registered owner of a farm or any white person who is the lessee or lawful occupant thereof; and in the case of a farm registered in the name of more persons than one in undivided title, shall include any of such persons;
- “regulation” shall mean any regulation in force for the time being and made under section *ten*.

Amount of annual tax payable respectively by particular classes of natives.

3. (1) Subject to the provisions of the next succeeding section there shall be paid to the collector for the benefit of the public revenue, in respect of every calendar year, a tax by every person in this section described and at the rate therein mentioned, that is to say—

- (a) by every farm labourer—one pound;
- (b) by every municipal location resident—one pound;
- (c) by every adult (other than a farm labourer or municipal location resident) whose domicile is this Colony and by every such adult who is not so domiciled but who has resided therein for a continuous period of twelve months immediately preceding the date upon which the tax becomes due—two pounds;

and a further tax by every such person of two pounds if he has more than one wife by native custom.

(2) Every such tax shall become due on the first day of January in every year, and on payment a receipt therefor shall be given by the collector in the prescribed form and any receipt held by the person for any previous payment made by him or on his behalf shall thereupon be given up to the collector.

(3) A collector may grant to any person liable to such tax an extension of time to pay the same, and such extension shall be evidenced by a document in the prescribed form, and the tax shall thereupon be deemed to be due on a date mentioned in such document.

Persons exempted from payment of tax.

4. The following persons shall be exempt from any tax mentioned in this Act:—

- (a) Any native whose permanent residence is outside the Colony but who, since his entrance therein, has been

working continuously under a contract of service, or is residing in this Colony to perform labour therein and produces evidence that he has discharged all liability to pay the current taxes imposed under the law of the Colony or territory of his permanent residence;

(b) any native holding a letter of exemption granted under the Coloured Persons' Exemption (or Relief) Proclamation 1901 or any amendment thereof or a registration certificate granted under Natives Relief Ordinance 1902 or any amendment thereof;

(c) any native who satisfies the collector that he is indigent and is prevented from working by reason of age, chronic disease, or other good cause;

(d) any native who produces to the collector a certificate from the head of a recognised Christian denomination that he is—

(i) an evangelist, catechist, or teacher; and

(ii) is in the regular and continuous service of such denomination; and

(iii) has been so employed at a fixed rate of remuneration, not exceeding forty-eight pounds per annum, during the whole of the year for which the tax is payable; and

(iv) has no other source of income.

5. (1) Every person liable under this Act to pay a tax shall, if he fail to pay the same when it is due, be guilty of an offence and liable, on conviction, to a fine not exceeding five pounds, or in default of payment, to imprisonment not exceeding one month.

Penalty for non-payment of tax and method of enforcing payment.

(2) The burden of proving the payment of the tax, any extension of time for its payment, or any exemption from liability to pay the same shall, in any charge under this section, lie upon the accused person.

(3) The court which tries such offence may upon application of the prosecutor, give judgment in favour of the Colonial Treasurer for the amount of tax proved on the trial to be due from the accused, and such judgment shall have the same force and effect, and be executable in the same manner, as if it had been given in a civil action duly instituted before a court of resident magistrate.

(4) No such judgment shall be given in any case in which the tax, the subject of the offence, has been paid before the conviction of the accused.

(5) No such judgment shall be put into execution if the accused, being convicted, and having noted an appeal against the conviction, shall give security, to the satisfaction of the court, to pay the amount of the judgment if the appeal is dismissed.

6. (1) Any collector, police constable, police officer, or other officer appointed to issue passes to natives may demand from any adult the production of—

Production and inspection of tax receipts and documents granting extension of time for or exemption from payment

(a) his tax receipt or any duplicate issued to him in the prescribed form; or

(b) a document granting him an extension of time for payment of the tax; or

(c) a document showing his exemption from liability to pay the tax;

and shall inspect the same if produced, and return it to the person producing it.

(2) If default is made by an adult in complying with the requirements of this section he shall be guilty of an offence and liable on conviction to the penalties mentioned in the last preceding section.

(3) Any person who, having under this section obtained the production of a receipt or document therein mentioned, fails to return it to the person producing it, shall, save as is provided in sub-section (2) of section *three*, be guilty of an offence, and liable, on conviction, to a fine not exceeding fifty pounds, or in default of payment, to imprisonment not exceeding three months, or to such imprisonment without the option of a fine.

(4) Any person who, without being authorized under this section to demand such receipt or document, shall obtain it, with intent to deprive an adult of its use, shall be guilty of an offence, and liable, on conviction, to the penalties prescribed by law for fraud.

(5) Any person in possession of any such receipt or document, whether lawfully or unlawfully, who permits the same to come into the possession of another person, with intent that it shall be used as a receipt or document for extending time of payment, or as a document exempting from payment, and any person who being in possession of such receipt or document belonging to another person, represents the same as his own, shall be guilty of an offence, and liable, on conviction, to the penalties mentioned in sub-section (4).

7. (1) Every proprietor shall, whenever required, give to the collector a certificate of the names and number of farm labourers working for him on his farm, and upon the application of any such labourer give to him a certificate that he is a farm labourer working on such proprietor's farm.

(2) Every superintendent, inspector, or officer in charge of a location under the control of a local authority shall, whenever required, give to the collector a certificate of the names and number of municipal location residents in such location, and shall, upon the application of any such resident, give to him a certificate that he is such municipal location resident.

(3) All such certificates shall be given in the prescribed form, and if the collector be dissatisfied with any certificate he shall report the facts to the Minister, who may amend the same after hearing the proprietor or officer in charge of the location (as the case may be) and instituting any enquiries that appear necessary. Any certificate amended by the Minister shall be deemed the certificate required by this section and shall be accepted as conclusive by the collector and the proprietor or officer in charge of the location (as the case may be).

Certification  
of number  
of farm  
labourers by  
proprietor.

(4) Any person who fails when required to give such certificate or gives a certificate under this section which is false in any material particular knowing the same to be false, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine.

8. Every magistrate and native commissioner shall have jurisdiction to try offences against this Act or the regulations.

Jurisdiction of magistrates and native commissioners under this Act.

9. If a person reasonably suspected of liability to pay a tax under this Act—

Arrest without warrant.

(a) fails to pay within the time required; or

(b) fails to produce any such receipt or document as is described in sub-section (1) of section *six* upon such demand as therein mentioned,

he may be arrested, without warrant, and shall thereupon be brought before a court having jurisdiction, to be dealt with as in this Act is provided.

10. (1) The Governor may from time to time make, alter, or rescind regulations not inconsistent with the provisions of this Act—

Regulations.

(a) providing for the manner of collecting the tax payable under this Act;

(b) defining the duties and responsibilities of proprietors of farms, chiefs of tribes, and headmen of kraals, in relation to the collection of the tax;

(c) defining the powers and duties of collectors;

(d) prescribing forms to be used for the purposes of this Act;

(e) generally for the better carrying out of the objects and purposes of this Act.

(2) The regulations may provide penalties for any contravention thereof, not exceeding, in the case of a fine, twenty-five pounds, or in case of imprisonment in default of payment or without the option of a fine, a period of three months.

(3) All regulations shall be published in the *Gazette* and shall thereupon have force and effect. They shall further be laid upon the tables of both Houses of Parliament within seven days after such publication, if Parliament be then in session, and if it be not then in session, within seven days after the commencement of the next ensuing session.

(4) Any regulation made under the laws hereby repealed, which was in force on the date of the coming into operation of this Act, shall be deemed to have been made under the powers of this section.

\* 11. This Act may be cited for all purposes as the Native Tax Act 1908 and shall not come into operation unless and

Title and date of operation of Act.

\* For Royal Assent and date of operation (1st January, 1909), see Proc. (Admn.) No. 108 of 1908.

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until the Governor shall, by proclamation in the *Gazette*, have declared that it is His Majesty's pleasure not to disallow it, and thereafter it shall come into operation on such date (not before the 1st day of January 1909) as the Governor may, by like proclamation, declare.

Act No. 10 of 1908.]

[Promulgated 14th August, 1908.]

## AN ACT

TO AMEND THE LAWS FOR THE PREVENTION OF THE SPREAD OF  
DISEASE AMONGST STOCK.

Assented to 11th August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Section *one* of Ordinance No. 17 of 1902 shall be and is hereby amended by the addition immediately after the words "assistant resident magistrate" of the words "or field cornet or resident justice of the peace."

Amendment of section *one* of Ordinance No. 17 of 1902.

2. Section *two* of the said Ordinance shall be and is hereby amended by the addition immediately after the words "resident magistrate" of the words "assistant resident magistrate or field cornet or resident justice of the peace" and by the substitution for the words "Colonial Secretary" of the words "Minister of Agriculture."

Amendment of section *two* of Ordinance No. 17 of 1902.

3. For a second or subsequent contravention of section *three* of the said Ordinance, or of any regulations made under section *five* thereof, imprisonment, with or without hard labour, without the option of a fine for a period not exceeding six months may be imposed as a punishment.

Amendment as to penalties for contravention of Ordinance No. 17 of 1902 or regulation thereunder.

4. Section *four* of Ordinance No. 38 of 1904 shall be and is hereby amended by the insertion immediately after the words "resident justice of the peace" of the words "field cornet."

Amendment of section *four* of Ordinance No. 38 of 1904.

5. Section *seven* of Ordinance No. 38 of 1904 shall be and is hereby amended by the insertion in paragraph (*e*) thereof immediately after the words "or land" of the words "or any cattle kraals."

Amendment of section *seven* of Ordinance No. 38 of 1904.

6. Section *eleven* of Ordinance No. 38 of 1904 shall be and is hereby amended by the insertion immediately after the words "not exceeding six months" of the words "or in the case of a second or subsequent conviction."

Amendment of section *eleven* of Ordinance 38 of 1904.

7. (1) The Minister of Agriculture may order any stock from an area adjoining an area declared an infected area under Ordinance No. 17 of 1902, or an area declared an infected or suspected area under Ordinance No. 38 of 1904, to be removed.

Power to order removal of stock from infected or suspected areas or area adjoining such areas.

(2) Any person failing to comply with an order of the Minister made under this section or resisting or obstructing



any person lawfully carrying out such order, shall be guilty of an offence and liable on conviction to the penalties prescribed by section *three* of the first-mentioned Ordinance as amended by section *three* of this Act.

Amendment of section *seven* of Ordinance No. 17 of 1902.

8. Section *seven* of Ordinance No. 17 of 1902 shall be and is hereby amended by the addition at the end of the said section of the words "or any other animal liable to a disease to which this Ordinance or any amendment thereof has been so applied."

Payment of compensation in respect of cattle slaughtered etc., under Ordinance No. 38 of 1904.

9. (1) Section *nine* and the Second Schedule to Ordinance No. 38 of 1904 shall be and are hereby repealed.

(2) Compensation shall be paid by the Minister of Agriculture

(a) to the owner of cattle destroyed under section *three* (b) of the said Ordinance;

(b) to the owner of cattle injured or dying in consequence of any dipping, spraying, or branding of cattle under section *seven* of the said Ordinance.

(3) The amount of such compensation shall be as determined by a board consisting of the resident or assistant resident magistrate or one of the field cornets of the district in which the cattle were kept and two other persons to be nominated by the said Minister, and shall be paid within one month from the date of destruction, injury, or death (as the case may be).

(4) Save as in this section mentioned, no compensation shall be payable in respect of any loss or damage caused by the exercise of the powers of the said Ordinance.

Permit necessary to purchase or acquire cattle in areas where East Coast Fever is prevalent.

10. (1) No person shall, without the written permit of the Minister of Agriculture or of a person appointed by him to issue such permits, purchase, exchange, or in any other manner acquire any cattle or skins or meat which are within an area declared by notice in the *Gazette* to be an area in which East Coast Fever is prevalent.

(2) Any such permit may be refused by the said Minister, or, subject to an appeal to the said Minister, by the person appointed to issue such permits.

(3) Any person who contravenes the provisions of this section shall be liable on conviction to a fine not exceeding one hundred pounds or, in default of payment, to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

Penalty for collecting or being in possession of cattle ticks with intent to spread disease.

11. (1) Any person who shall in any area declared under Ordinance No. 17 of 1902 to be an infected area or in an area declared under Ordinance No. 38 of 1904 to be an infected or a suspected area, be found collecting cattle ticks with intent to spread any disease amongst cattle, shall be guilty of an offence and liable on conviction to imprisonment with hard labour for a period not exceeding five years.

(2) Any person who shall in any part of this Colony be in possession of cattle ticks with the intent aforesaid shall be liable on conviction to the penalties aforesaid.

(3) The burden of disproving any such intent shall in any prosecution under this section lie upon the accused person.

12. This Act may be cited for all purposes as the Diseases of Stock Amendment Act, 1908, shall be read as one with Ordinance No. 17 of 1902 and Ordinance No. 38 of 1904 and shall come into operation on the date of its first publication as an Act, in the *Gazette*.\*

Title and date  
of operation  
of Act.

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\* This date was the 14th Aug., 1908.

Act No. 11 of 1908.]

[Promulgated 14th August, 1908.]

## AN ACT

TO APPLY A FURTHER SUM NOT EXCEEDING ONE HUNDRED AND FORTY-FIVE THOUSAND SIX HUNDRED AND EIGHTEEN POUNDS STERLING FOR THE SERVICE OF THE YEAR ENDED THE THIRTIETH DAY OF JUNE 1908.

Assented to 11th August, 1908.

WHEREAS it is necessary to provide for certain expenditure necessarily incurred during the year ended the thirtieth day of June 1908 in addition to the sums provided by the Appropriation (Part 1907-1908) Act 1907 and the Appropriation Act (No. 3) 1907:—

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Public revenue charged with £145,618 for the year ended 30th June, 1908.

1. The public revenue of this Colony is hereby charged towards the service of the year ended on the thirtieth day of June 1908 with a further sum of One hundred and forty-five thousand six hundred and eighteen pounds sterling in addition to the several sums provided for by the Appropriation (Part 1907-1908) Act 1907 and the Appropriation Act (No. 3) 1907.

Not to be applied otherwise than as granted.

2. The money granted by this Act shall not be applied to any use, intent or purpose, other than the particular services specified in the Schedule to this Act.

Appropriation for Extraordinary Expenditure not to lapse until services completed.

3. No appropriation granted by this Act for the services described as Extraordinary Expenditure in the Schedule to this Act, shall lapse until the service in respect of which such appropriation was made has been completed.

The Treasurer to make payments under warrant of the Governor.

4. The issue and payment from time to time by the Colonial Treasurer by warrant under the hand of the Governor of such sums of money as were or may be required for the purposes hereinbefore mentioned (not exceeding in the whole the sums respectively in that behalf specified) shall be deemed to have been or to be proper issues, and the Colonial Treasurer shall in his accounts be allowed credit for all sums paid by him in pursuance of any such warrant; and the receipts of the persons, to whom such sums shall have been so paid, shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

5. This Act may be cited for all purposes as the Additional Appropriation (1907-1908) Act 1908 and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Title and date of operation of Act.

SCHEDULE.

ORDINARY EXPENDITURE.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
5	Joint Parliamentary Expenses	Clerk of the Legislative Assembly	£1,560
8	Colonial Secretary ..	Assistant Colonial Secretary ..	7,000
13	Education.. ..	Director of Education ..	8,000
20	Mines .. ..	Secretary for Mines ..	1,137
26	Agent-General in London	Secretary to the Treasury ..	2,325
27	Pensions .. ..	Secretary to the Treasury ..	49,921
31	Lands .. ..	Secretary for Lands ..	16,748
Total Ordinary Expenditure ..			£86,691

EXTRAORDINARY EXPENDITURE.

Letter of Vote.	Nature of Expenditure.	Accounting Officer.	Amount.
B.	Extirpation of Cattle Disease	Director of Agriculture ..	£10,000
E.	Purchase of Hypothecated Properties bought in by the Investment Board and by the Repatriation Department (Resettlement Loans)	Secretary for Lands ..	48,000
F.	Expropriation of Wonderfontein Concession	Secretary to the Treasury	581
G.	Irrigation Works, Warmbaths	Secretary for Lands ..	346
Total Extraordinary Expenditure ..			£58,927

SUMMARY.

Ordinary Expenditure .. .. .	£86,691
Extraordinary Expenditure .. .. .	58,927
Total .. .. .	£145,618

\* This date was the 14th Aug., 1908.

Act No. 12 of 1908.]

[Promulgated 21st August, 1908.]

## \*AN ACT

TO AMEND THE LAW RELATING TO THE FENCING OF FARMS AND  
OTHER HOLDINGS.

Assented to 15th August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

## PRELIMINARY.

1. The Fencing Ordinance 1904 (Ordinance No. 7 of 1904) shall be and is hereby repealed.

2. In this Act, unless inconsistent with the context ;

“bank” shall mean the Land and Agricultural Bank established under Act No. 26 of 1907 ;

“Bank Act” shall mean Act No. 26 of 1907, or any amendment thereof, or regulations made thereunder ;

“department” shall mean the Department of Agriculture of this Colony ;

“dividing fence” shall mean a fence as in this section defined—

(a) which separates adjoining holdings ; and

(b) the specifications of which are approved by the department, or, in the case of a dividing fence not erected under Chapter I, are agreed upon between the owners of such holdings, or, in the absence of agreement, are determined by the magistrate ; and

(c) which is situate either along or close to the surveyed line of the common boundary of the holdings ;

“fence” shall mean a substantial stock-proof fence with gates at places where it crosses a public or private road and with suitable appliances where it crosses any obstacles ; and shall include a fence erected prior to this Act under any law then in force, or otherwise, provided it is of a nature herein described ;

“holding” shall mean—

(a) an area of land (not being an erf or stand) held by a white person under separate grant, deed of transfer, certificate of title, or lease ; or

(b) an area of land held under a lease or licence by any person under the Settlers Ordinance, 1903, the

\* See Act No. 26 of 1909.

Crown Land Disposal Ordinance, 1903, the Land Settlement Act, 1907, or any amendment of such laws ; or

(c) an area of land reserved under section *twelve* of the Crown Land Disposal Ordinance 1903 for stock, forestry, or agricultural purposes ; or

(d) any area of land used as a native location or mission station or held by a native under separate grant, deed of transfer, certificate of title, or lease ;

“imprisonment” shall mean imprisonment with or without hard labour, as the court which passes sentence may determine ;

“magistrate” shall mean, in relation to any holding, the resident or assistant resident magistrate of the district in which the holding is situate, and in the case of a holding situate in a detached sub-district, shall mean the detached assistant resident magistrate thereof ;

“Minister” shall mean the Minister of Agriculture ;

“owner” shall mean—

(a) in the case of paragraph (a) of the definition of “holding,” the person registered as the owner in the Deeds Office of this Colony ; and

(b) in the case of paragraph (b) of such definition, the person by whom the land is held under lease or licence as in such paragraph described ; and

(c) in the case of paragraph (c) of such definition, the Minister of Lands ; and

(d) in the case of a native location under paragraph (d) of such definition and registered in the name of the Minister for Native Affairs, such Minister ;

“repair” shall, in relation to a fence or ditch or part thereof, include trimming, cutting, and maintaining in good order.

## CHAPTER I.

### FENCING ERECTED OUT OF LAND BANK ADVANCES.

\*3. (1) Notwithstanding anything in the Bank Act contained, the owner of any holding which is occupied by one or more white persons in a manner beneficial to the land and which is not already enclosed with a fence, shall, upon written application to the department and after approval by the bank, be entitled to obtain as an advance from the bank out of its funds sufficient to cover the cost of such materials mentioned in section *five* (including the transport thereof to the holding) as are necessary to enclose his holding with a fence. The department shall be the sole judge whether a holding has been beneficially occupied for the purposes of this section and shall transmit the application to the bank with its recommendation thereon.

Advances from Land Bank funds towards cost of materials for fencing a holding.

(2) Any advance made under this section to an owner shall, with interest thereon at three and a half per cent. per annum, be repaid to the bank by equal half-yearly instalments, so calculated

\* As amended by Act No. 26 of 1909, section 1 (1), and see section 1 (2).

that the whole advance and interest be repaid within a period of ten years from the date when the first instalment became due. The first instalment shall become due two years after the advance is made, but, during that period of two years, interest only at the rate aforesaid shall be payable by the owner to the bank.

(3) Notwithstanding anything in sub-section (1) contained the Minister may, in any special case in which he deems fit, sanction in writing an advance to cover the cost of erecting the fence, and if such sanction be obtained the provisions of sub-sections (1) and (2) shall in all respects apply to such advance.

Security for  
advances  
made under  
section three.

4. (1) Every advance made under the last preceding section shall be secured in the following manner:—Upon receiving from the department information in writing of—

- (a) the date and amount of the advance;
- (b) the person to whom the same has been made;
- (c) the holding in respect of which the advance has been made;

the bank shall transmit such information to the Registrar of Deeds who shall, upon receipt of such information, cause a note thereof to be made in the land register against the entries therein in respect of such holding, and shall forthwith transmit to the said manager a certified copy of such note.

(2) The making of such note shall have the effect of creating in favour of the bank a charge upon the holding, which shall, subject to the decision of the bank after consultation with the holder of any existing mortgage, have priority over any other charge existing or thereafter created, until the amount of the advance and the interest thereon have been repaid in accordance with the last preceding section.

(3) The Registrar of Deeds shall delete from the land register any such note as soon as he shall have received from the manager of the bank written information that the amount and interest, in respect of which the note was made, have been repaid to the bank. The Registrar of Deeds shall forthwith give written information of the deletion of any such note to the bank and to the department.

(4) Upon transfer of a holding in respect of which any such note has been made, the charge noted may be transferred with the holding if the written consents of the transferor the transferee and the bank be lodged with the Registrar of Deeds.

Power of  
department  
to enter  
upon holding  
and inspect  
fencing and  
take steps  
that advances  
are properly  
applied to  
purposes  
thereof.

5. (1) The bank shall from time to time supply the department with funds for the purpose of enabling the department to purchase the material required for the fencing mentioned in this section.

(2) The materials required for fencing shall be supplied to the applicant at cost price by the department and the specifications of any fence to be erected under this Chapter shall be approved by it.

(3) The department may, by its officers, enter upon any holding to inspect the progress of any fencing to be carried out thereon or in connection therewith by means of the materials for the cost of which an advance has been made under this Chapter.

(4) If the department shall be of opinion that undue delay has occurred in carrying out such fencing, or that the materials

being or to be used therefor are being misapplied, or that any fence or a portion thereof erected with the materials is in need of repair, it may cause written notice to be served upon the owner to complete the fencing or execute the same to its satisfaction within a time to be specified in the notice, and in default of compliance with the terms thereof within the time so specified, the department may, by its officers or other persons appointed thereto, proceed to complete the fencing or execute the repairs, and notice shall be sent to the bank of the costs thereof which shall be added and be deemed to be a portion of the advance. The provisions of the last preceding section shall apply in all respects to the additional liability so incurred by the owner.

6. The provisions of Part III of the Bank Act shall not apply in respect of advances to be made under the provisions of this Chapter.

Part III of Bank Act not to apply to advances under this Chapter.

\*7. (1) If any owner has, either heretofore or under this Chapter, erected a fence on the boundary of his holding, and the owner of an adjoining holding adopts means by which such fence is rendered of beneficial use to himself, the last-mentioned owner shall be liable to pay to the first-mentioned owner interest at the rate of eight per cent. per annum on one-half of the then value of that portion of the fence of which he has the beneficial use and for such period as he continues such use, and shall be further liable during such period to pay one-half the cost of repairing such portion. The department shall determine what is the value of the fence when beneficial use is made thereof as well as any question as to what is beneficial use for the purposes of this section or as to the time at which such use was made.

Persons using another's fence to pay interest on half its cost.

(2) In lieu of the payment of such interest either owner may apply to the department for an equal apportionment of the then value of the fence as between them, and thereafter the Registrar of Deeds shall, upon the written information of the department as to the apportionment, note the necessary charges in respect of each holding.

(3) Any owner who, in manner described by sub-section (1) of this section, obtains the beneficial use of a fence, shall, in addition to his liability under such sub-section, be further liable to pay the other owner one-half the cost of labour expended in erecting such fence, such cost being determined by the department.

## CHAPTER II.\*

### PROVISIONS INCIDENTAL TO FENCING.

8. Any person, whether under this Act or otherwise, erecting a fence on land covered with bush, may clear the bush for a distance not exceeding five feet on each side of such fence, and may remove any tree standing in the immediate line of such fence; and the cost of such clearing shall be deemed to be part of the cost of erecting the fence.

Bush may be cleared for fencing.

\* As to definition of "owner", see Act No. 26 of 1909, section 3.



Ditch and  
bank fence.

9. In making any ditch and bank fence dividing one holding from another, the ditch may be made on either holding and the soil taken therefrom may be used towards making the bank on the other holding.

Manner of  
placing  
dividing  
fence.

10. If any dividing fence be made of posts and rails, or wire, or palings, the posts shall, as nearly as possible, be placed on the boundary line of the holdings.

Give-and-  
take line.

11. (1) If, between two or more holdings, a dividing line is formed by a dry water-course or river (not being of such a nature as to form a natural barrier for stock), or range of hills, outcrops of solid rock, or kopjes, along which it is impracticable or inexpedient to erect a fence, the owners concerned may agree upon a fair give-and-take line as a dividing line to be fenced in accordance with this Act, and in default of such agreement any such owner may apply to the magistrate who shall cause a fair give-and-take line to be surveyed at the cost of the owners concerned.

(2) Any fair give-and-take line so agreed upon or surveyed shall be deemed to be the boundary line for the purposes of this Act, but shall not otherwise affect the titles to any of such holdings.

Repairs of  
fences erected  
under  
Chapter I or  
otherwise  
than under  
Ordinance  
No. 38 of  
1904.

12. (1) If any fence erected under Chapter I or otherwise than under Ordinance No. 38 of 1904 has become a dividing fence and is out of repair the owner on either side thereof shall be liable, in equal proportion, for the cost of repairs; and either owner may serve upon the other a notice requiring him to assist in repairing such fence; and if such other owner shall fail for the space of one week after service of such notice to assist in repairing such fence the first-mentioned owner may himself repair it and recover from the other owner the proportion of the cost due from him.

(2) Notwithstanding anything in sub-section (1) contained, if any such dividing fence, or a portion thereof, be destroyed by accident, either owner may immediately repair the same without notice and may recover from the other owner the proportion of the cost aforesaid, provided that if such destruction be due to the act or default of one of such owners he shall be liable for the whole cost of repair.

(3) If any fence mentioned in this section is in the opinion of the Minister not a stock proof fence he may order the owner to make such alterations in such fence as would make it a substantial stock proof fence; and in default of compliance by the owner with the terms of such order, the Minister may cause such alterations to be made and the cost thereof shall be recoverable from the owner.

Repair of  
fence erected  
under  
Ordinance  
No. 38 of 1904.

13. If any fence erected under Ordinance No. 38 of 1904 or any gate connected therewith, be out of repair, the Minister may cause written notice to be served upon the person liable under the said Ordinance to pay for the cost of the erection of the fence, to put the same in repair to the satisfaction of any person named by the Minister, and within a time to be fixed by such notice and if such fence or gate be not put into satisfactory repair

within the time so fixed any person nominated by the Minister in writing may execute the repairs and the cost thereof shall be added to and be deemed part of the cost of erection, and the provisions of the said Ordinance as amended by Act No. 17 of 1907 shall in all respects apply to the repayment and mode of securing repayment of such cost. In any case in which the service of such notice cannot be effected without great loss of time, the Minister may execute the repairs without such notice, and the costs shall be recoverable from the owner in manner aforesaid.

14. Any person erecting or repairing a fence, whether under this Act or otherwise, along the dividing line of two holdings, shall, for himself, his servants, implements, materials, animals, and vehicles, have at all times access to any property for the purpose of carrying out the work reasonably required for the erection or repairs; provided that nothing in this section contained shall be construed as authorizing the entry, without the consent of the occupant, upon land under cultivation, or on a garden, plantation, or pleasure ground, or to cut down, lop, or injure any fruit trees, ornamental trees or shrubs.

Access to persons erecting fences.

15. For the purpose of any inspection, valuation, or survey, or of carrying out any of the provisions of this Act, the magistrate or any person authorized in writing by him, or by the Minister, may enter upon any land and value, measure, survey, take grades and levels, fell trees, cut fences, and do all other acts necessary for such purposes; provided that all damage caused by the exercise of the powers of this section shall, as far as possible, be repaired and so far as the repair of damage is not possible, the amount thereof shall be paid to the owner, and such amount shall, failing agreement, be finally determined by the magistrate.

Access to magistrate officials surveyors inspectors etc

### CHAPTER III.

#### OFFENCES.

16. Any person who shall—

(a) open and leave open or unfastened; or

(b) finding open, shall on passing through, neglect to shut and fasten

Leaving gates open.

a gate in any fence, shall be liable on conviction, in the case of a first offence, to a fine not exceeding ten pounds, or, in default of payment, to imprisonment for a period not exceeding fourteen days, and in the case of a second or subsequent conviction to a fine not exceeding twenty pounds, or, in default of payment, to imprisonment for a period not exceeding one month, or to such period of imprisonment without the option of a fine.

17. Any person who, having injured a fence or gate, fails on request by the owner or lessee of the land on which it is situate or by some person authorized thereto by such owner or lessee, to give his correct name and address, shall be liable on conviction to the penalties prescribed for a second or subsequent contravention of the last preceding section.

Persons injuring fences and failing to give correct name and address.

Malicious  
injury to  
fences.

18. Any person who wilfully injures or removes any fence, gate, or other appliance or contrivance forming part or serving the purpose thereof, shall be liable on conviction to a fine not exceeding seventy-five pounds or, in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine; and the court before which he is convicted may proceed without any pleadings, but in his presence, to assess the amount of damage caused by him and may give judgment for the amount with costs in favour of the owner of such fence, gate, appliance, or contrivance and against the accused, and such judgment may be executed in all respects as a judgment of a court of resident magistrate in a civil action is executed.

Accidentally  
damaging  
fencing.

19. (1) Any person who inadvertently or accidentally injures any fence situate upon a holding or on a public road within a holding shall forthwith repair the same, and in the event of his being unable to do so, he shall forthwith report the injury and inability to repair to the owner of the holding and deposit or give security for such sum as may be reasonably sufficient to cover the cost of the repair, and the owner shall thereupon on request give such person an acknowledgment of the deposit or security.

(2) If any person fail to comply with the requirements of this section he shall be liable to a fine not exceeding ten pounds or, in default of payment, to imprisonment for a period not exceeding fourteen days and in addition the court before which he is convicted may order him to pay by way of damages such sum as will cover the cost of such repairs, the provisions of the last preceding section being applied *mutatis mutandis* to the making and enforcement of such order.

Misappropriation of money and material advanced for fencing.

20. Any person who shall misappropriate or divert any money advanced under this Act to or for any purpose other than that for which it was advanced, or shall sell or otherwise wrongfully dispose of any material obtained from such advance, or intended for the erection or repair of a fence or gate, shall be liable on conviction to imprisonment for a period not exceeding two years, and any sums owing for such money or materials shall be recoverable from him with interest at the rate of six per cent. per annum.

## CHAPTER IV.

### MISCELLANEOUS.

Act not to affect agreements as to dividing fences unless made to frustrate the purposes of Act.

21. Nothing in this Act contained shall be construed as affecting any contract, covenant, or agreement heretofore made, or hereafter to be made between any lessor or lessee or between the owners of adjoining holdings relative to dividing fences; provided that any such agreement hereafter made shall, in so far as it was made to frustrate any purpose of this Act, shall *ab initio* be null and void.

Fences erected otherwise than under this Act.

\*22. The provisions of section *seven* shall *mutatis mutandis* apply to a fence which has been erected otherwise than under this Act.

23. The court of resident magistrate of the district in which the defendant in any civil proceedings under this Act resides shall have jurisdiction to entertain such proceedings and give judgment for the amount claimed notwithstanding that the proceedings or amount claimed is under the law relating to courts of resident magistrate, beyond the ordinary jurisdiction of such court.

Special civil jurisdiction to courts of resident magistrate.

24. If any civil proceedings be taken under this Act against a lessee for which the lessor would ultimately incur any liability, the lessor may intervene and defend such proceedings and any defence which the lessee has or may set up shall be available to the lessor in addition to any other defence he may set up.

Lessor may intervene in and defend proceedings against his lessee.

25. A fence as in this Act defined shall be deemed to be a sufficient fence for the purposes of the Stock Theft Ordinance, 1904, or any amendment thereof.

Fence to be a sufficient fence for purposes of Ordinance No. 6 of 1904.

26. Any obligation or duty imposed by sections *seven*, and *nine* to *twelve* inclusive on an owner or lessee shall, if the Crown be the owner or lessee of a holding, be binding upon it.

Certain sections of Act to be binding on Crown as owner or lessee.

27. This Act may be cited for all purposes as the Fencing Act, 1908, and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Title and date of operation of Act.

\* This date was 21st August, 1908.

Act No. 13 of 1908.]

[Promulgated 21st August, 1908.

## AN ACT

## TO AMEND THE RAILWAY REGULATION ORDINANCE 1903.

Assented to 15th August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Repeal of  
Ordinance No.  
60 of 1903.

Interpreta-  
tion of terms.

1. The Railway Regulation Ordinance 1903 (Ordinance No. 60 of 1903) the second proviso to section *one* of the Crown Liabilities Ordinance 1903 and the Railway Police Ordinance 1903 (Ordinance No. 18 of 1903) shall be and are hereby repealed.

2. In this Act, unless inconsistent with the context;

“Administration” shall mean the person or persons appointed to administer and control the railways, whether the appointment be under any convention to which the Governor is a party, or be made by the Governor;

“fare” shall include all sums received or receivable, charged or chargeable for conveyance of passengers upon or along any railway;

“free pass” shall mean an authority in writing given by the Administration or by an officer thereto appointed for the person to whom it is given to travel as a passenger on a railway without the payment of any fare;

“freight” shall include all sums received or receivable, charged or chargeable for the transport of goods upon or along any railway;

“goods” shall mean goods, luggage, or other movable property of any description and shall include animals and birds whether live or dead;

“Governor” shall mean the officer for the time being administering the Government of this Colony acting by and with the advice of the Executive Council thereof;

“imprisonment” shall mean imprisonment with or without hard labour as the court which passes sentence for an offence may determine, except where imprisonment with hard labour is expressly provided by this Act as a punishment for an offence;

“luggage” shall mean such articles of necessity or personal use and convenience as, being enveloped in some kind of package, are usually carried by passengers for their personal use but shall not include merchandise or other valuables, which, though carried in the trunks of passengers, are not designed for any such use, but are for sale or other like purposes;

- “perishable goods” shall include fish, fruit, vegetables, plants, bread, meat, game, butter, eggs, milk, dogs, small animals, birds, poultry, and any other thing which may hereafter be declared by the Governor by proclamation in the *Gazette* to be perishable goods ;
- “railway” shall mean the whole or any portion of the railways ;
- “railways” shall mean and include all lines of railway within this Colony over which the Governor or the Administration has control or rights, and all lands, stations, sidings, buildings, plant, machinery, rolling stock and all other movable and immovable property and servitudes used in connection therewith ;
- “railway servant” shall mean any person employed by the Administration in the service of the railways ;
- “regulation” shall mean any regulation made and in force in accordance with section *four* of this Act ;
- “rolling stock” shall mean locomotive engines, tenders, motors, carriages, wagons, trucks, and trollies of all kinds ;
- “traffic” shall include not only passengers and their luggage and goods conveyed by the Administration, but also rolling stock ;
- “through traffic” shall mean traffic which is carried over any railway, whether administered and controlled by the Administration or not ;
- “train” shall mean a locomotive engine or motor by itself, or any rolling stock that is drawn or propelled along a railway or is in course of being drawn or propelled along a railway by a locomotive engine or motor ;
- “ticket” shall include a single ticket, a return ticket, a season ticket, a trip bearer ticket, and a mile coupon and any other written authority (not being a free pass) for a person to travel as a passenger on its railways ;
- “warehouse” shall mean any building or place provided or used by the Administration, or by any railway servant in charge of a station, for the purpose of storing or depositing goods. Where it is more convenient to the Administration that the goods to be warehoused shall remain in trucks, those trucks when placed in a siding, shall for the purposes of this Act, be deemed a warehouse.

3. The Administration may use upon the railways locomotive or other engines propelled by steam or other motive power and rolling stock to be drawn or propelled thereby, and may transport and convey upon the railways all such traffic as may be offered to it for transport and conveyance, and may make such charges in respect thereof as it may from time to time determine, subject to this Act or the regulations.

Locomotives may be used on the railways.

\*4. (1) The Administration may from time to time make, alter, or rescind regulations, not inconsistent with this Act or with the

Regulations.

\* For regulations, see Govt. Notices Nos. 156 of 1909 (*Gazette*, 12/2/09), 221 of 1909 (*Gazette*, 26/2/09), 225 of 1909 (*Gazette*, 26/2/09), 637 of 1909 (*Gazette*, 11/6/09), 1071 of 1909 (*Gazette*, 17/9/09), 1260 of 1909 (*Gazette*, 5/11/09), 1383 of 1909 (*Gazette*, 10/12/09), 1431 of 1909 (*Gazette*, 17/12/09), 1459 of 1909 (*Gazette*, 31/12/09), 570 of 1910 (*Gazette*, 27/5/10).

regulations made under sub-section (2) of this section, with respect to any of the following matters, that is to say with respect to—

- (a) the mode in which and the speed at which trains are to be propelled or moved ;
- (b) the times of arrival and departure of any trains ;
- (c) the loading or unloading of rolling stock and the weights or dimensions to be carried on any rolling stock ;
- (d) the collection, receipt, cartage and delivery of goods transported or to be transported upon trains ;
- (e) the accommodation and convenience of passengers, the manner in which they shall travel, and the manner of conveying their luggage, and the amounts of fares and the charges which may be fixed for the conveyance of luggage ;
- (f) fares, freight or other charges, the amount thereof, and the time when and the place where they shall be paid ;
- (g) permission or prohibition to smoke in stations, buildings, or on rolling stock ;
- (h) the conduct of all persons while upon or in any station or building or while employed at, on, or near the same ;
- (i) the duties and conduct of railway servants ;
- (j) the admission of the public to any of the railways and the charges (if any) to be made for such admission ;
- (k) the use of stamps as prepayment upon parcels ;
- (l) the charges to be made for warehousing goods and in respect of parcels and luggage for transit or for their care or custody, and the terms and conditions upon which they respectively shall be received ;
- (m) the disposal of unclaimed goods ;
- (n) the issue of free passes and concession tickets and the prevention of abuse thereof ;
- (o) the use of railways or railway land for coal stands, forwarding sites, pipe lines, power lines and the like, and whether the same shall be overhead or underground ;
- (p) advertising on the railways ;
- (q) the insurance of persons travelling on the railways ;
- (r) generally with respect to the travelling or traffic upon or the use or working of the railways, and for the good government thereof and the maintenance of order thereon.

(2) The Governor may from time to time make, alter, or rescind regulations, not inconsistent with this Act, with respect to any of the following matters, that is to say with respect to—

- (a) the definition for the purposes of this Act of dangerous or offensive goods and the conditions under which and the times when such goods shall be transported, or prohibiting the transport of such goods ;
- (b) the reservation of railway premises, or of any railway carriage, or of any portion thereof, for the exclusive use of males or females, white or coloured persons, Asiatics or natives, and the restriction of any such person to the use of the premises, carriage, or portion thereof so reserved ;
- (c) the prevention of the commission of any nuisance in or upon the railways ;

- (d) the duties and conduct of cabmen, carmen, draymen, carriers and porters, who are not in the employment of the Administration but who ply for hire to or from any station or building which is under the control of the Administration ;
- (e) the prevention of damage or injury to any railway station or buildings, premises, rolling stock, gates, fences or any property whatever ;
- (f) the construction, use, and maintenance of private sidings and branch lines connected with the railways.

(3) No regulation or alteration or rescission thereof, whether made by the Administration or the Governor, shall take effect until it has been published in the *Gazette*, save that a regulation made under paragraph (i) of sub-section (1) shall be binding on a railway servant as soon as it is communicated to him by any person having authority to do so and without publication in the *Gazette*.

(4) The regulations, whether made by the Administration or the Governor, may provide penalties for any breach thereof and may also impose different penalties in case of successive breaches, provided that no such penalty shall exceed a fine of fifty pounds or, in default of payment, imprisonment for a period not exceeding six months, or both such fine and imprisonment.

(5) A regulation made under paragraph (i) of sub-section (1) may provide that the railway servant shall forfeit a sum not exceeding one month's pay to be deducted therefrom by the Administration.

(6) The Administration shall keep at each station on the railways a copy of all regulations for the time being in force and shall allow any person to inspect them free of charge.

(7) All bye-laws and regulations in force at the coming into operation of this Act having reference to the railways and not inconsistent with the provisions of or altered or rescinded under this Act shall be deemed to be regulations made under this section and shall be construed as if so made and shall remain of full force and effect until so altered or rescinded.

#### CONVEYANCE OF PASSENGERS.

5. A table of fares and a copy of the time-table for the time being in force relating to the conveyance of passengers shall be posted up in the English and Dutch languages in a conspicuous place at each station and so as to be visible and accessible.

Fares to be posted up.

6. (1) Fares shall be deemed to be accepted and tickets to be issued subject to the condition of there being room available in the train and in a carriage of the class for which the tickets are issued.

Conditions upon which tickets are issued.

(2) A person, to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued, shall, upon returning the ticket at the earliest opportunity, be entitled to have his fare refunded.

(3) A person, for whom there is not room available in the class of carriage for which he has purchased a ticket and who elects to travel in a carriage of a lower class shall on delivering up his ticket and receiving the certificate hereinafter in this



section referred to, be entitled to a refund of the difference of the fare paid by him and the fare payable for the class of carriage in which he travelled; provided that a refund shall only be made if at the first opportunity the passenger so travelling shall have called the attention of the railway servant in charge of the train to the fact that he is obliged to travel in a class of carriage inferior to that mentioned on his ticket and received from such servant a certificate showing that he is entitled to the refund.

(4) Subject to the provisions of this and the next succeeding section and of any regulation, the Administration shall not refuse to carry a passenger who has tendered the proper fare for the journey which he desires to make and the class in which he desires to travel.

(5) The provisions of sub-sections (2) and (3) shall not apply to season tickets.

Conveyance of lunatics or infectious persons.

7. The Administration may refuse to carry, except in accordance with the regulations, a person who appears to be a lunatic or suffering from any contagious or infectious disease.

Liability in respect of loss of life or personal injury to passenger.

8. (1) The Administration shall only be liable for loss of life or personal injury to any passenger when such loss of life or personal injury is caused by the want of ordinary care, diligence, or skill on the part of its servants, and the Administration shall in no case be liable for loss of life or personal injury to a passenger who is travelling by special permission whether verbal or written on a train to which no passenger coach is attached.

(2) For the purposes of this section the term "passenger" shall include every person travelling upon a train not being a railway servant in respect of whom a claim for compensation under the Workmen's Compensation Act 1907 can be made for loss of life or personal injury caused by an accident to the train on which he is travelling.

Travelling without a free pass or ticket prohibited.

9. No person shall enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a free pass or ticket.

Travelling without free pass or ticket or with insufficient pass or ticket or beyond authorized distance.

10. (1) If a passenger travels in a train without having a free pass or ticket with him, or being in or having alighted from a train fails or refuses to present for examination or to deliver up his free pass or ticket immediately on requisition being made therefor he shall be liable to pay on demand of any railway servant in uniform, or wearing, in a visible manner, a badge of his office the excess charge hereinafter in this section mentioned in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he originally started, the single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined, or, in case of their having been examined more than once, the place where they were last examined.

(2) If a passenger travels or attempts to travel in a carriage of a higher class than that for which he has obtained or free pass

or ticket, or travels in or on a carriage beyond the place authorized by his free pass or ticket, he shall be liable to pay on the demand of any railway servant in uniform, or wearing, in a visible manner, a badge of his office the excess charge mentioned in sub-section (3) in addition to any difference between any fare paid by him and the fare in respect of such journey as he has made.

(3) The excess charge referred to in sub-sections (1) and (2) shall be—

(a) where the passenger has, immediately after incurring the charge and before being detected by a railway servant, notified to a railway servant on duty with the train or at a station the fact of the charge having been incurred, one shilling, sixpence, or threepence according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the first class, or in a carriage of the second class or in a carriage or vehicle of any other kind or class ; and

(b) in any other case, ten shillings, five shillings, or two shillings and sixpence according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the first class or in a carriage of the second class or in a carriage or vehicle of any other class or kind ; provided that such excess charge shall in no case exceed—

(i) if the liability to pay it arises under sub-section (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section ; or

(ii) if such liability arises under sub-section (2), the amount of the differences between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.

If any person refuse to pay the amounts due by him under this section to any railway servant demanding the same, it shall be lawful for any police officer or constable or for any railway servant in uniform or wearing, in a visible manner, any badge of office to arrest without warrant and detain in custody such person and bring him before a court having jurisdiction to be dealt with according to law ; and such person on conviction shall be liable to a fine not exceeding five pounds or, in default of payment, to imprisonment for a period not exceeding one month, or to both such fine and imprisonment.

11. (1) If a passenger wilfully alters, obliterates, or defaces his free pass or ticket so as to render the date, number, or any material portion thereof illegible, he shall be liable to a fine not exceeding twenty-five pounds or, in default of payment, to imprisonment for a period not exceeding three months, and shall in addition be liable to a further fine equal to the amount of a single ticket for the journey performed by the class in which he was travelling ; and any such altered, obliterated, or defaced free pass or ticket shall be confiscated.

Altering or  
defacing free  
pass or ticket

(2) Any person who obtains by false pretences or other fraudulent means or who counterfeits, forges, or alters any ticket, order, receipt for fare or free pass issued by the Administration

designed to entitle the holder to travel in the carriages of the Administration, or who utters, publishes, or puts into circulation any counterfeit or altered ticket, order, receipt for fare or free pass, with intent to defraud the Administration or any other person, shall be liable on conviction to a fine not exceeding one hundred pounds, or, in default of payment, to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

Transferring  
season ticket  
or any half of  
return ticket.

12. If a person sells, or attempts to sell, or parts or attempts to part with the possession of a season ticket or any half of a return ticket in order to enable any other person to travel therewith, or purchases or receives such season ticket or half of a return ticket he shall be liable to a fine not exceeding five pounds or, in default of payment, to imprisonment for a period not exceeding fourteen days, and if the purchaser or receiver of such season ticket or half of a return ticket travels or attempts to travel therewith, he shall be liable to a further fine not exceeding the amount of the single fare for the journey authorized by the ticket, or in default of payment to imprisonment for a further period not exceeding one month.

Fraudulently  
travelling or  
attempting to  
travel.

13. If a person with intent to defraud the Administration ;  
(a) enters any carriage or other rolling stock on a railway ;  
or

(b) uses or attempts to use a single free pass or single ticket which has already been used on a previous journey, or in the case of a return ticket or pass a half thereof which has already been so used ;

he shall be liable to a fine not exceeding ten pounds or, in default of payment, to imprisonment for a period not exceeding one month in addition to the amount of the single fare for any distance he may have travelled, together with the prescribed booking fee (if any).

Recovery of  
fares, etc.

14. It shall be the duty of any magistrate passing any sentence under section *nine* or *twelve*, to impose in addition to such sentence a further fine equal to the amount payable to the Administration for the fare and booking fee (if any) payable or due by the accused in respect of the journey performed by him in the class in which he was travelling, and to order that if, on the payment of such fine or at the expiration of such sentence, such further fine shall not have been paid the person convicted shall be imprisoned for a further period not exceeding one month.

Any further fine recovered under this section or under section *ten* or *eleven* shall be paid in to the revenues of the Administration.

#### PASSENGERS' LUGGAGE.

Conveyance of  
passengers'  
luggage.

15. The Administration shall convey without charge such amount of luggage as may be prescribed by regulation or by public notice for each class of passenger.

Registration  
of luggage.

16. (1) When passengers' luggage is handed to a railway servant for conveyance in the luggage van he shall affix to every package a registered number and shall give to the passenger a duplicate of such number ; provided that the Administration shall

not be liable for luggage left with a railway servant or otherwise disposed of at any station unless registered as in this sub-section provided or deposited in a cloak-room.

(2) Whenever a passenger fails to have his luggage so registered and carried in the luggage van, it is carried at his own risk.

(3) Cloak-rooms provided by the Administration shall be and be considered to be warehouses established for the sole convenience of passengers and the public.

(4) The Administration shall not be liable for the loss, mis-delivery, or detention of, or damage to any article or package deposited in a cloak-room which exceeds in value the sum of five pounds unless at the time of deposit the value of such article is declared and an additional charge paid for excess value in accordance with the regulations.

17. The Administration shall have a lien upon the luggage of a passenger for the payment of any fare or other charge to which it is entitled from him. Lien on luggage.

#### Goods.

18. (1) Unless the owner or consignor or his representative accompanies the property and retains control thereof, the Administration carrying goods is liable for loss of or injury to such goods from any cause whatsoever from the time it accepts such goods in accordance with the regulations until it releases itself from liability by delivery of the goods to the consignee or his representative or by placing the same in a warehouse pursuant to this Act, except in the case of— Liability of Administration for goods carried.

(a) an inherent defect, vice or weakness, or some action of the property itself ;

(b) the act of God ;

(c) inevitable accident ;

(d) the act of the King's enemies or other inevitable superior force ;

(e) the act of the law.

(2) The Administration is liable even in the cases excepted by sub-section (1) if its negligence exposes the property to the cause of the loss.

(3) The Administration is liable for delay only when it is caused by want of ordinary care and diligence on its part.

19. (1) A consignor or consignee by accepting a receipt or written contract for the transport of goods assents to the rate, time, place, and manner of transport and delivery and to the conditions therein stated. Effect of accepting receipt.

(2) Subject to sub-section (1) the liabilities and obligations of the Administration cannot be limited by general notice but may be limited by special contract.

20. (1) The Administration may impose conditions, not inconsistent with this Act or with any regulation, with respect to the receiving, forwarding, or delivering of any goods and with regard to the interchange of traffic with other carriers or railway administrations. Administration may impose conditions.

(2) The Administration shall keep at each station on the railways a copy of the said conditions, and shall allow any person to inspect it free of charge at all reasonable times.

(3) The Administration shall not be bound to carry any animal suffering from any infectious or contagious disease or any wild animal.

Consignor liable for freight unless there is a contract that consignee will pay.

21. (1) The consignor of goods shall be liable for the freight thereon but if the contract between him and the Administration provides that the consignee shall pay it, and the Administration allows the consignee to take the goods, it cannot afterwards recover the freight from the consignor.

(2) The consignee of goods is liable for the freight thereon if he accepts the goods with notice that the same is unpaid.

Lien for freight.

22. (1) If a person fail, on demand made by or on behalf of the Administration, to pay any freight in respect of any goods, the Administration may detain the whole or any part of the goods, or, if they have been removed from the railway, any other of the goods of such person then being in or thereafter coming into its possession.

(2) When any goods have been detained under sub-section (1), the Administration may, in the case of perishable goods at once, and, in the case of other goods, by public auction on the expiry of at least ten days' notice of the intended auction published in one or more newspapers circulating in the district where the goods were detained, sell sufficient of such goods to produce a sum equal to the freight and all expenses of such detention, notice, and sale, including in the case of animals the expense of feeding, watering, and tending the same. Every such notice shall state the name of the consignor and of the consignee, if known.

(3) Out of the proceeds of the sale the Administration may retain a sum equal to the freight and expenses aforesaid, including any balance due in respect of any former freight and expenses, rendering to the person entitled thereto the surplus (if any) of the proceeds and such of the goods (if any) as remain unsold.

(4) If a person, on whom a demand for any freight due from him has been made, fails to remove from the railway within seven days any goods which have been detained under sub-section (1), or any goods which have remained unsold after a sale under sub-section (2), the Administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be in accordance with the provisions of sub-section (3).

(5) Notwithstanding anything in this section contained, the Administration may recover by action in any competent court any such freight or expenses.

Disposal of unclaimed goods.

23. (1) When any goods have come into the possession of the Administration for transport or otherwise and are not claimed by the owner or other person appearing to the Administration to be entitled thereto, the Administration shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the goods.

(2) If such owner or person is not known or the notice cannot be served upon him, or if he does not comply with the requisition in the notice, the Administration may sell the goods in accordance

with the provisions of the last preceding section (so far as such provisions are applicable), rendering the surplus (if any) of the proceeds of the sale to any person entitled thereto; in the meantime the Administration may place the goods in a warehouse and thus relieve itself from any further liability.

(3) Notwithstanding anything in this section contained if perishable goods accepted by the Administration for transportation are, on arrival at their destination, in such a condition that in the opinion of the Administration they will become worthless, the Administration may, if the owner or person entitled to the goods has not claimed them, proceed at once to carry out the sale in accordance with this section, or if the goods have in fact become worthless, may proceed to destroy them.

24. (1) If, after the Administration has fulfilled its obligations to deliver or duly offered to fulfil the same, the consignee does not accept and remove the goods within the time specified in any regulations or in any consignment note, the Administration may relieve itself from further liability by placing the goods in a warehouse on account of the consignee and giving notice thereof to him, and any such warehousing shall be considered as being for the sole benefit of the consignee or consignor as the case may be.

Where consignee fails to take or remove goods.

(2) If the place of residence or business of the consignee be unknown to the Administration, it may give the notice by posting a letter to the consignee to the address given on the goods or papers relating thereto. Where goods are consigned to a consignee through or to the care of a third party, delivery shall be effective if made to the consignee direct or to such third party.

25. (1) The Administration shall be released from liability for goods by delivery thereof in good faith to any holder of a duplicate consignment note or advice note given therefor by or on behalf of the Administration and specially endorsed, or to the holder of an order for the delivery of goods or receipt for luggage or parcels by or in the name of the consignor or consignee.

Upon delivery to holder of consignment note, etc., Administration released from liability

(2) When the Administration has given a receipt or other document substantially equivalent thereto, it may require its surrender or a reasonable indemnity against claims thereon before delivering the goods.

(3) When any goods or sale proceeds in the possession of the Administration are claimed by two or more persons or the documents described in sub-sections (1) and (2) are not forthcoming, the Administration may withhold delivery of the goods or sale proceeds until the person entitled in its opinion to receive them has given an indemnity to the satisfaction of the Administration against the claims of any other person with respect to the goods or sale proceeds; in the meantime the Administration may place the goods in a warehouse.

26. (1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being transported and the consignee of any goods which have been transported on a railway, shall, on the request of any railway servant, deliver to such servant a declaration in writing signed by such owner or person or by such consignee (as the case may be) and containing

Administration may require written description and weight of goods.

the true weight and such a description of the goods as may be sufficient to determine the rate and amount which the Administration is entitled to charge in respect thereof.

(2) If such owner, person, or consignee fails to deliver such declaration or on being required to do so fails to open the parcel or package containing the goods in order that their description may be ascertained, the Administration may—

(a) in respect of goods which have been brought for the purpose of being transported on the railways, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railways for any class of goods, and, when there are no facilities for weighing, upon the weight as estimated by any railway servant; or

(b) in respect of goods which have been transported on the railways, charge a rate not exceeding such highest rate, and, when there are no facilities for weighing, upon the weight as estimated by any railway servant.

(3) If the weight of goods is materially understated the Administration shall be entitled to charge on double the difference between the weight as stated and the actual weight.

(4) (a) If any person wilfully makes a false statement as to the nature, quantity, weight, or measurement of any goods delivered upon a railway in any consignment note, waybill, or other document which under this Act he is required to deliver in respect of such goods, that person shall be liable to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

(b) If in any such document there is any understatement of the quantity, weight, or measurement of the goods, or any misdescription of their nature, the effect whereof if undetected might lead to their being charged for at less than the proper rate, then in lieu of freight at the ordinary rate and irrespective of any person's liability under sub-section (3) and whether the understatement or misdescription is wilful or not, freight at a special rate to be fixed by the Administration, not exceeding double the ordinary rate, shall be payable in respect of the goods.

(5) If any difference respecting the description or weight of goods of which a declaration as aforesaid has been delivered arises between a railway servant and the owner or person having charge or the consignee of any goods which have been brought to be transported or have been transported on the railways, the railway servant may detain and examine the goods.

(6) If it appears from the examination or weighing that the description or weight of the goods is different from that stated in the declaration delivered under sub-section (1), the person who delivered the declaration or, if that person is not the owner of the goods, then that person and the owner shall be liable jointly and severally to pay to the Administration the cost of the detention and examination of the goods, and the Administration shall be exonerated from all responsibility for any loss which may have been caused by such detention or examination.

27. Notwithstanding anything in this Act contained, the Administration shall not be responsible for the loss, destruction, or deterioration of any goods with respect to the description of which a declaration materially false has been delivered under sub-section (1) of section *twenty-six*, or in respect of which a wrong or improper or insufficient address for delivery has been given, if the loss, destruction or deterioration is in any way brought about by the false declaration or by giving a wrong or improper or insufficient address, nor in any case for an amount exceeding the value of the goods, if such value were calculated in accordance with the description contained in the false account.

Relief from liability in case of goods improperly described.

28. (1) No person shall take with him or require the Administration to transport loaded firearms or any dangerous goods upon a railway.

Dangerous goods.

(2) No person shall send any such goods upon a railway without making a written declaration as to the nature and description of such goods and distinctly marking their nature on the outside of the package containing them, and such declaration countersigned by the officer in charge of the sending station shall accompany the goods throughout.

(3) Any railway servant may refuse to receive such goods for transport or conveyance and when such goods have been received without such declaration as is mentioned in sub-section (2) may refuse to carry them or may stop their transit.

(4) If any railway servant has reason to believe that any such goods are contained in a package with respect to the contents whereof such declaration as is mentioned in sub-section (2) has not been given, he may cause the package to be opened for the purpose of ascertaining its contents and if the goods are dangerous, he may stop the further transport thereof.

(5) Nothing in this section shall be construed as derogating from any law for the time being in force relating to explosives or as applying to any goods tendered or delivered for carriage by order or on behalf of the Imperial Government or the Government of this Colony, or as applying to any property which an officer, soldier, or member of a police force or a person duly enrolled as a volunteer may take with him upon a railway in the course of his employment or duty as such.

(6) Any person contravening this section shall be liable to a fine not exceeding two hundred and fifty pounds or, in default of payment, to imprisonment for a period not exceeding two years, or to both such fine and imprisonment and further to confiscation of the goods, and in addition such person shall be liable for any loss, injury, or damage which may be caused by reason of such goods having been so brought upon the railway.

29. (1) The liability of the Administration under section *eighteen* for the loss, destruction or deterioration of live animals, or birds delivered to it to be transported on a railway shall not in any case exceed the amounts mentioned in the First Schedule to this Act, unless the person sending or delivering them to the Administration caused them to be declared or declared them at the time of their delivery for transport, to be respectively of higher value than the amounts set out in the said Schedule.

Limitation of liability in respect of animals transported.



(2) Where such higher value has been declared, the Administration may, in respect of the increased risk, charge over the sums respectively chargeable according to such Schedule a percentage on the excess of value so declared.

(3) In every legal proceeding against the Administration for the recovery of compensation for the loss, destruction, or deterioration of any live animal or bird the burden of proving the value thereof and the extent of the injury shall lie upon the person claiming the compensation.

Limitation of liability in respect of articles of special value.

30. (1) When any of the articles mentioned in the Second Schedule hereto are contained in any parcel or package delivered to the Administration for transport on the railways, and the value of the articles in the parcel or package is ten pounds or more, the Administration shall not be responsible for the loss, destruction, or deterioration of the parcel or package, unless the person sending or delivering the same to the Administration caused its value and contents to be declared or declared them at the time of its delivery for transport and paid, by way of compensation for the increased risk, over the sum aforesaid a percentage upon the excess of the value so declared.

(2) When loss, destruction, or deterioration has occurred in respect of any package or parcel for which the value has been declared and the percentage on excess value has been paid under sub-section (1), the compensation recoverable in respect of such loss, destruction, or deterioration shall not exceed the value so declared, and the burden of proving such value to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) The Administration may make it a condition of transporting a parcel declared to contain any article mentioned in the Second Schedule to this Act that a railway servant has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

Administration not responsible for goods not lost on its lines.

31. When goods are transported over any line of the Administration which is only part of the journey for which they are despatched and are lost, destroyed, or have deteriorated, the Administration shall be exonerated from liability for the loss, destruction, or deterioration if it gives satisfactory proof that the same did not occur whilst the goods were on the railways of the Administration.

Claims for refunds and compensation must be made within four months.

32. No person shall be entitled to a refund of an overcharge in respect of goods transported on a railway or to compensation for the loss, destruction or deterioration of goods delivered for transport, unless within four months after the date of the delivery, a written claim to the refund or compensation has been made by him or on his behalf containing full and detailed information as to the goods and supported by such documentary evidence as may be reasonably required.

Owner of goods suing for loss need not prove how loss caused.

33. In any legal proceedings against the Administration for compensation for loss, destruction or deterioration of goods (other than live animals and birds) delivered to it for transport by railway it shall not be necessary for the claimant to prove how the loss, destruction, or deterioration was caused.

34. No goods whatsoever upon which customs duty is payable shall be sold under this Act without the authority of the principal customs officer of the Colony and nothing in this Act contained shall affect or diminish the rights and powers conferred upon customs officers by any law for the time being in force for the management of or relating to customs.

No goods on which customs duty payable to be sold without authority of principal customs officer.

#### RAILWAY SERVANTS.

35. (1) Any person who is intoxicated while in charge of a locomotive engine or while acting as engine-driver or fireman, conductor, ticket examiner, or guard upon any train or while acting as officer in charge of a station, train foreman, pointsman, gatekeeper, or signalman, or as telegraph operator receiving or transmitting messages in relation to the movement of trains, shall on conviction be liable to imprisonment with hard labour for a period not exceeding two years.

Drunkenness of railway servants.

(2) Any railway servant other than is mentioned in subsection (1) who is in a state of intoxication while on duty and shall, if the improper performance of the duty would be likely to endanger the safety of any person travelling or being on a railway, be liable on conviction to imprisonment with hard labour for a period not exceeding one year or to a fine not exceeding fifty pounds or, in default of payment, to such period of imprisonment or to both such fine and imprisonment.

36. Any railway servant who when on duty endangers the safety of any person—

Endangering the safety of persons by railway servants.

(a) by disobeying any regulation ; or

(b) by disobeying any rule or order which is not inconsistent with a regulation and which such servant was bound by the terms of his employment to obey and of which he had notice ; or

(c) by any rash or negligent act or by any omission ;

shall be liable on conviction to imprisonment for a period not exceeding two years or to a fine not exceeding one hundred pounds or, in default of payment, to such period of imprisonment or to both such fine and imprisonment.

37. Any railway servant who with intent to defraud asks or receives a greater sum than is allowed by law and is provided by the tariff then in force for the conveyance of passengers or transport of goods shall be liable on conviction to imprisonment for a period not exceeding two years, or to a fine not exceeding one hundred pounds or, in default of payment, to such period of imprisonment or to both such fine and imprisonment.

Penalty on railway servant for demanding more than is due.

38. Any railway servant who during the period which he shall have engaged to serve and not being duly discharged from the same, shall desert, or refuse to serve, or absent himself from duty without lawful cause or reasonable excuse, the proof of which shall lie upon him, shall be liable upon conviction to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Desertion by railway servant or refusal to serve.

Resignation  
of railway  
servant  
without  
notice.

39. Any railway servant who shall resign his office or withdraw himself from the duties thereof without previous permission or the notice required by any regulation or contract shall be liable upon conviction to a fine not exceeding fifty pounds sterling, or, in default of payment, to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Disputes  
between  
Administra-  
tion and rail-  
way servants.

40. (1) Whenever a dispute shall arise between the Administration and a considerable number of railway servants, or class of railway servants, as to any conditions proposed in the terms of their employment, and such dispute cannot be amicably settled and is in the opinion of the Administration causing or likely to cause serious disorganisation in the working of the railways, the Administration shall report its opinion to the Government.

(2) The Government, acting jointly if necessary with any other Government represented on the Administration, shall unless the dispute is otherwise previously settled appoint a Commission of impartial persons to investigate the cause of dispute and to make recommendations in reference thereto.

(3) The Commission shall consist of not less than three nor more than five persons (not being members or employees of the Administration), and one of the members of the Commission, who shall be Chairman, shall be either a person holding a judicial or magisterial office or an advocate or attorney.

(4) The report and recommendations of the Commission, and any report or recommendations made by a minority of the members, shall be published in the *Gazette*.

Railway  
servant on  
leaving  
service to quit  
official  
dwelling and  
deliver up  
articles of  
official dress.

41. (1) Whenever any railway servant is suspended, dismissed or resigns his office or dies the servant so suspended, removed or resigning and his family, and in case of the death of the servant, his family shall give up possession of the house or apartments in which he or they have previously resided by virtue of such office when required in writing by any person authorised in that behalf by the Administration, and if he or they fail to give up such possession within seven days after such notice has been given the resident or assistant resident magistrate of the district upon proof of service of the notice and of failure to comply therewith, may by warrant under his hand direct any police officer or constable or other person named in the warrant to enter (by force if necessary) such house or apartments and to remove therefrom any such servant or any other person wrongfully retaining possession, together with any goods or articles there found not belonging to the Administration. Any property or equipment found therein and belonging to the Administration shall be handed over to the Administration.

(2) When any railway servant has been suspended, dismissed from the service of the Administration or has resigned his office he shall forthwith deliver up every article of dress and of equipment and any book or document which shall have been supplied to him for use in the discharge of his duties or shall have come into his possession by virtue of his office. If any such article be not delivered up or when delivered up shall have been improperly

used or damaged the Administration may deduct from any moneys due to such servant a sum sufficient to make good the damage or if necessary to supply another such article.

#### GENERAL OFFENCES.

42. If any person does or causes or procures to be done any of the following acts—

Penalties for  
certain classes  
of offences.

- (a) trespasses upon a railway and refuses to leave after being warned to leave by any railway servant ;
- (b) is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of others on the railways ;
- (c) does anything which may cause injury to persons employed on or travelling on the railways ;
- (d) commits any nuisance or act of indecency or uses profane, obscene, indecent, or abusive language on the railways ;
- (e) writes, draws or affixes any profane, obscene, indecent, or abusive word, matter, representation, or character upon the railways ;
- (f) wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp or light on a train or railway station ;
- (g) defaces the writing on any board or any notice authorised to be maintained on any railway, railway station, or train ;
- (h) damages any railway rolling stock or any material used upon or belonging to any railway ;
- (i) being a passenger enters a compartment which is reserved by the Administration for the use of another passenger or which already contains the maximum number of passengers authorized to be carried therein, and refuses to leave it when required to do so by any railway servant ;
- (j) being a passenger resists the lawful entry of another passenger into a compartment not reserved by the Administration for the use of the passenger resisting, or not already containing the maximum number of passengers to be carried therein or thereon ;
- (k) smokes in any compartment on a train when smoking is not permitted in such compartment ;
- (l) enters or leaves any railway carriage on a train while it is in motion, or elsewhere than at the side of the carriage adjoining the platform or other places appointed by the Administration for passengers to enter or leave the carriage, or opens any outer door of any railway carriage on a train while it is in motion ;
- (m) travels or attempts to travel on or in any part of a train not intended for the use of passengers ;
- (n) drives any vehicle or animal across a level crossing or elsewhere on a railway when a train is approaching and within half a mile from such crossing ;
- (o) in the absence of a gatekeeper omits to shut and fasten any gate on the railway so soon as such person and the animal vehicle or other things (if any) under his charge has passed through the gate ;

(p) being a driver or conductor of a tramcar, omnibus, carriage or other vehicle disobeys, while upon the premises of the railways, the reasonable directions of any railway servant or police officer or constable ;

(q) attempts or counsels the doing of or assists or aids in doing any of the acts mentioned in this section ;

such person shall be liable on conviction to a fine not exceeding ten pounds, or, in default of payment, to imprisonment for a period not exceeding one month, or to both such fine and imprisonment.

Penalties for certain other classes of offences.

43. If any person does or causes or procures to be done any of the following acts—

(a) being a passenger without reasonable and sufficient cause, makes use of or interferes with any means provided by the Administration for communication between passengers and any railway servant in charge of or concerned in the running of a train ;

(b) knowing or being in a position to know that a railway carriage, compartment, or other place is reserved by the Administration for the exclusive use of males or females, white or coloured persons, Asiatics or natives, enters such carriage, compartment, or other place in contravention of a regulation and without lawful excuse, or having so entered it remains therein after having been desired by any railway servant to leave it ;

(c) pulls down or wilfully injures any board or document set up or posted by order of the Administration on a railway or on any rolling stock ;

(d) gives or offers to a railway servant any money or anything of value for the purpose of evading payment of any sum due from him under this Act ;

(e) being a passenger who is suffering from an infectious or contagious disease enters or travels upon a railway in contravention of the regulations ;

(f) being a railway servant and knowing that a person is a lunatic or suffering from an infectious or contagious disease wilfully permits such person to travel upon a railway without arranging for his separation from other passengers ;

(g) fails to deliver at the earliest possible opportunity to a railway servant any property found on any railway or in any railway carriage or removes any such property from a railway or railway carriage ;

(h) wilfully obstructs or impedes any railway servant in the discharge of his duty ;

(i) shoots any gun or throws stones, gravel, timber or any rubbish on a railway or at a train ;

(j) removes from a railway or any railway premises any rolling stock, tarpaulins, tools, appliances or property of any kind, or permits any such rolling stock, tarpaulins, tools, appliances or property to be unlawfully in his possession or on his premises ;

(k) permits or allows any animal to stray on a railway provided with fences ;

(l) drives or knowingly permits any animal to be on any railway otherwise than for the purpose of lawfully crossing the railway, whether such person be the owner of such animal or only in charge thereof;

(m) attempts or counsels the doing of or assists or aids in doing any of the acts mentioned in this section;

such person shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

44. If any person does or causes or procures to be done any of the following acts— Penalties for grave offences.

(a) steals any property belonging to or in the custody of the Administration, or receives any such property knowing it to have been stolen;

(b) does any act which obstructs or might obstruct the working of a railway or endangers or might endanger the lives of persons travelling thereon;

(c) without lawful authority moves any part of the rolling stock on a railway or leaves the same on any part of a railway;

(d) without lawful authority moves any signals, points, wires, sleepers, rails, stop blocks, or machinery on a railway, or shows any signal likely to mislead;

(e) without lawful authority cuts down, breaks, removes, destroys or injures any fence, building or bridge or other property in or upon any railway;

(f) attempts or counsels the doing of or assists or aids in doing any of the acts mentioned in this section;

such person shall be liable on conviction to imprisonment with hard labour for a period not exceeding five years and in addition to a fine not exceeding five hundred pounds or, in default of payment, to a further period of imprisonment not exceeding two years.

#### INJURIES TO STOCK.

45. (1) The Administration shall make compensation to the owner of any stock killed or injured by any train running on any railway, provided that no compensation shall be payable in respect of any stock killed or injured where such killing or injury is due to the want of ordinary care or diligence of the owner or his servant. Compensation for injuries to stock.

(2) No person shall be entitled to recover any sum of money under this section for the killing or injury of any stock who, within seventy-two hours after such stock has been killed or injured, shall fail to give notice to the nearest officer in charge of a station or platelayer in charge of a section of the killing or injury and of the number and kind of the stock so killed or injured in respect of which compensation is claimed.

(3) The carcases or remains of all stock killed and all injured stock in respect of which any claim is made under this section shall be diligently and to the best of his ability kept and preserved by the owner making such claim for a period of not less than

three full days from the time when such killing or injury took place or until such time as such carcasses or remains have been inspected by a person appointed to ascertain the value of such stock.

(4) A person who fails diligently and to the best of his ability to keep and preserve such carcase and remains of killed stock or such injured stock as aforesaid or a person who makes under this section any claim for compensation determined by a court of competent jurisdiction to be fraudulent or grossly excessive shall not be entitled to any of the benefits of this section. A person who makes any such claim with intent to defraud shall be liable to the penalties prescribed by law for the crime of fraud.

(5) Compensation under this section to the owner of any stock killed or injured shall in no case be payable at a higher rate than as follows:—

For any horse, twenty-five pounds.

For any mule, twenty pounds.

For any donkey, eight pounds.

For any cattle, per head, twelve pounds.

For any ostrich, twelve pounds.

For any sheep, goat or pig, one pound.

(6) "Stock" shall, for the purposes of this section, include a horse, gelding, mare, colt, mule, ass, bull, ox, cow, calf, sheep, goat, and ostrich.

#### LEGAL PROCEEDINGS.

Limitation on actions.

46. (1) No action, shall be brought against the Administration unless the same be commenced within twelve months after the cause of action arose.

(2) No action shall be commenced against the Administration until one month at least after written notice of intention to commence the same shall have been served upon the Administration by the plaintiff or by his attorney or agent. In such notice the cause of action and details of claim shall be clearly and explicitly stated.

Legal proceedings to be brought by and against the Administration in corporate name.

47. (1) All legal proceedings to which the Administration is a party shall so long as it is a body corporate be brought by or against the Administration in its corporate name.

(2) No writ of execution or attachment or process in the nature thereof shall be issued against the Administration in respect of any legal proceedings brought or judgment or order given or made against it, nor shall any such writ or process be issued against any railway, rolling stock, or other railway property of the Administration, but it shall be lawful for the Administration to pay out of railway funds such sum of money as shall be awarded by the judgment or order of any competent court to the plaintiff, applicant, or petitioner.

Examination by medical practitioner.

48. Whenever any person claims damages or compensation from the Administration in respect of an alleged personal injury, any judge of the Supreme Court or any court, having by law or consent of the parties jurisdiction to determine the claim, may, at any time before or after the proceedings to recover such damages or compensation have been commenced, order that the

person injured be examined on behalf of the Administration by one or more duly qualified medical practitioners named in the order, and may make such order with respect to the manner, time, and place of conducting the examination, and the costs of the application for such order and of such examination, as he or it may think fit.

#### ACCIDENTS.

49. When any of the following accidents occur in the course of working a railway namely:—

Report of railway accidents.

- (a) any accident attended with loss of human life or with grievous bodily harm or with serious injury to property; or
- (b) any collision of trains of which one is a train carrying passengers; or
- (c) the derailment of any train carrying passengers or of any part of such train; or
- (d) any other accident that has caused or was likely to cause loss of human life or grievous bodily harm or serious injury to property;

the Administration shall without unnecessary delay send notice of the accident to the Attorney-General. The Governor may appoint an officer to make enquiry into the causes of such accident and report to him thereon; provided that the holding of such enquiry shall not exempt any magistrate or justice of the peace having jurisdiction from holding such inquest or enquiry as is prescribed by the Inquests Proclamation 1901 or any amendment thereof.

50. The Administration shall send to the Governor, in such form and manner and at such intervals as he may direct, a return of accidents, whether attended with personal injury or not, occurring upon its railways.

Submission of return of accidents.

#### TELEGRAPH AND TELEPHONES AND ARRANGEMENTS WITH POST OFFICE.

51. The Administration may from time to time construct and maintain telegraphic or telephonic communication with or without wires along or adjacent to any of the railways, and for such purposes may enter upon any lands, roads, or streets and make therein all needful excavations for the erecting of posts and for the laying down of lines of subterranean communication, and may erect and set up any necessary posts, cords, and wires. Every cord or wire of any such line, if above the surface crossing any road or street, shall be placed at least eighteen feet from the ground and so as not to hinder or obstruct the free use or enjoyment of such road or street further than is absolutely necessary for the proper construction, establishment, and maintenance of any such communication.

Power to erect telegraphs.

52. The Administration shall, if required by the Postmaster-General, affix wires to any of the posts of the Administration (if such posts can bear such wires), and the Postmaster-General shall if required by the Administration affix wires to the posts of the Postmaster-General (if such posts can bear such wires), and

Wires to be affixed to existing posts if required.



the cost of maintenance shall be divided between the Administration and the Postmaster-General in proportion to the number of wires on such posts belonging to each, or in such other proportion as may appear equitable.

Working of the telegraphs vested in the Administration.

53. (1) The telegraphic or telephonic communication belonging to the Administration or which are worked under the direction or on behalf of the Administration may be used by the Administration for the transmission of messages in relation to the working of the railways, and, so far as is consistent with the due and efficient working of the railways, may be made available for the transmission of messages by the public. All such last-mentioned messages shall be transmitted by railway servants as agents of the Postmaster-General; and there shall be demanded and received in respect of such last-mentioned messages such fees, rates, and dues as may for the time being be lawfully demanded or received by the Postmaster-General in respect of telegraphic or telephonic communication under his control; save as aforesaid the Administration shall not transmit or permit the transmission of messages on behalf of the public through its telegraphic or telephonic communications.

(2) The remuneration to be paid by the Postmaster-General to the Administration for the transmission of messages as aforesaid may be either a fixed sum or a percentage on the gross sum received by the Postmaster-General from the Administration in respect of such transmission, or may be determined in such other way as may from time to time be agreed upon between the Postmaster-General and the Administration.

Power for the Administration and Postmaster-General to make contracts.

54. The Administration and the Postmaster-General may from time to time enter into, alter and rescind contracts and agreements with each other with respect to the receipt and transport of letters, newspapers, and parcels, or to any other matter or thing in relation to the postal service, and with respect to the working of any of the telegraphic or telephonic communication of the Postmaster-General by the Administration and generally with respect to telegraphs and telephones and the transmission of telegraphic or telephonic messages.

#### MISCELLANEOUS.

Powers of railway officials to arrest.

55. All station masters and station officials, inspectors, permanent way inspectors, conductors, ticket inspectors, and collectors, and any other railway servant in uniform or wearing, in a visible manner, a badge of his office, and acting under the authority of any such officer may arrest and remove from any railway carriage or railway premises any person found trespassing on the railways or contravening any of the provisions of this Act or any regulation.

The person so arresting shall, with all convenient speed, deliver the person arrested or cause him to be delivered to a police officer or constable to be dealt with according to law.

Appointment of railway constables by magistrate.

56. (1) Any resident magistrate may, on the application of the Administration, appoint any person recommended for the purpose to act as a constable on and in connection with the railways within the district of such magistrate; and every person

so appointed shall take an oath or make a solemn declaration in the form prescribed by law for police constables.

(2) Every person so appointed may be dismissed by such magistrate or by the Administration, and if dismissed all powers and privileges which appertained to him by reason of his appointment as constable shall cease.

(3) No person so dismissed shall again be appointed to act as a constable under this section without the consent of the magistrate of the district or of the Administration.

57. (1) Whenever an appointment has been made under the last preceding section by a magistrate he shall forthwith transmit to the Administration notice of the name and designation of the person appointed and the date of the appointment; and the Administration on receipt of the notice shall forthwith transmit to the resident magistrate of every district through which the railway passes, the particulars received.

List of appointments and dismissals of railway constables to be sent to magistrate.

(2) The like procedure shall be observed *mutatis mutandis* whenever a person appointed to act as constable is dismissed under the last preceding section.

(3) Every notice under this section shall be transmitted within one week after the date of appointment or dismissal as the case may be.

(4) The magistrate shall record all such appointments and dismissals in such form as the Attorney-General may direct.

58. (1) Every person appointed as aforesaid to act as constable shall, after taking the oath or making the solemn declaration aforesaid and until dismissed, have all the powers conferred by law upon police constables on and in connection with the railways in whatever district of the Colony situate and in all places not more than one-quarter of a mile distant from the railways.

Powers and area of jurisdiction of constables and penalty for breach of duty.

(2) Every such person who is guilty of a neglect or breach of duty in his office of constable shall be liable on conviction to a fine not exceeding twenty-five pounds or, in default of payment, to imprisonment for a period not exceeding two months.

\*59. This Act may be cited for all purposes as The Railways Regulation Act 1908 and shall not come into operation unless and until the Governor shall have declared by proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the same, and thereafter it shall come in operation on such date as the Governor may by like proclamation declare.

Title and date of operation of Act.

FIRST SCHEDULE.

Horses	.. .. .	£25	per head.
Mules	.. .. .	£20	..
Cattle	.. .. .	£12	..
Donkeys	.. .. .	£8	..
Sheep, Goats and Pigs	.. .. .	£1	..
Ostriches	.. .. .	£12	..
Dogs	.. .. .	£2	..
Turkeys and Geese	.. .. .	15 Shillings	..
Fowls and other Poultry, Hares, Cats, and Birds not otherwise specified	.. .. .	5 Shillings	..
Pigeons, Guinea Pigs and Rabbits	.. .. .	2s. 6d.	..

\* See Proc. No. 82 Admn. 1908 (*Gazette*, 18th Sept., 1908, p. 1002), notifying His Majesty's assent to and proclaiming date of operation of Act as the 19th Sept., 1908.

## SECOND SCHEDULE.

## ARTICLES TO BE DECLARED AND INSURED.

- (a) Gold and silver, coined or uncoined, manufactured or unmanufactured.
- (b) Plated articles.
- (c) Cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police officer or constable or person enrolled as a volunteer under any Volunteer Corps Statute, or of any public officer, British or foreign, entitled to wear uniform.
- (d) Pearls, precious stones, jewellery.
- (e) Watches, clocks and timepieces of every description.
- (f) Government securities.
- (g) Government stamps.
- (h) Bills of exchange, promissory notes, bank notes, and orders or other securities for payment of money.
- (i) Maps, plans, writings and title deeds.
- (j) Paintings, engravings, lithographs, photographs, carvings and other works of art.
- (k) Art pottery and all articles made of glass, china or marble.
- (l) Silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.
- (m) Shawls.
- (n) Lace, furs and feathers.
- (o) Ivory, ebony and sandalwood.
- (p) Musk, sandalwood oil and other essential oils used in the preparation of perfumes.
- (q) Musical and scientific instruments.
- (r) Any article of special value which the Governor may by notice in the Gazette add to this Schedule.\*

\* Plate glass, marble slabs, and marble blocks were added by Govt. Notice No. 855 of 1909 (*Gazette* 30/7/09).

Act No. 14 of 1908.]

[Promulgated 28th August, 1908.

## AN ACT

TO APPLY A SUM OF MONEY FOR THE SERVICE OF THE YEAR  
ENDING THE THIRTIETH DAY OF JUNE, 1909.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The Public Revenue of this Colony is hereby charged towards the service of the year ending the thirtieth day of June, 1909, with a sum of Four million three hundred and twenty thousand and sixty-two pounds in addition to the sum of Five hundred thousand pounds sterling provided for by the Appropriation (Part 1908-1909) Act 1908.

Public Revenue to be charged with £4,320,062.

2. The money granted by this Act shall not be applied to any use, intent, or purpose other than the particular services specified in the Schedule to this Act.

Not to be applied otherwise than as granted.

3. No appropriation granted by this Act for any particular service set forth in the Schedule to this Act under the head of Extraordinary Expenditure shall lapse until such service has been completed.

Appropriation for Extraordinary Expenditure not to lapse until particular service completed.

4. The Colonial Treasurer being duly authorized thereto by warrant under the hand of the Governor shall issue and pay from time to time such sums of money as shall be required for the purposes hereinbefore mentioned not exceeding in the whole the sums respectively in that behalf specified, and shall in his accounts be allowed credit for all sums paid by him in pursuance of such warrant; and the receipts of the persons to whom such sums shall have been so paid shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

The Treasurer to make payments under warrant of the Governor.

5. This Act may be cited for all purposes as the Appropriation (1908-1909) Act 1908.

Title.

## SCHEDULE.

## ORDINARY EXPENDITURE.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount of Vote.
			£
1	His Excellency the Governor	Secretary to the Prime Minister	8,911
2	Ministers' Salaries .. ..	" " "	19,000
3	Legislative Council .. ..	Clerk of the Legislative Council	8,820
4	Legislative Assembly .. ..	Clerk of the Legislative Assembly	27,890
5	Joint Parliamentary Expenses	" " "	5,575
6	Prime Minister .. ..	Secretary to the Prime Minister	3,495
7	Agriculture and Forests .. ..	Director of Agriculture .. ..	194,913
8	Colonial Secretary .. ..	Assistant Colonial Secretary ..	65,648
9	Public Health .. ..	" " " .. ..	93,177
10	Grants-in-Aid to Local Authorities	" " " .. ..	95,400
11	Volunteers .. ..	" " " .. ..	72,793
12	Education .. ..	Director of Education .. ..	602,808
13	Attorney-General .. ..	Secretary to the Law Department	43,538
14	Superior Courts .. ..	" " "	43,390
15	Magistrates .. ..	" " "	138,329
16	Police .. ..	Commissioner of Police .. ..	576,939
17	Prisons .. ..	Director of Prisons .. ..	240,349
18	Foreign Labour .. ..	Superintendent of Foreign Labour	18,618
19	Mines .. ..	Secretary for Mines .. ..	145,228
20	Treasury .. ..	Secretary to the Treasury .. ..	16,993
21	Internal Revenue .. ..	" " " .. ..	19,313
22	Auditor-General .. ..	Auditor-General .. ..	12,872
23	Customs .. ..	Director of Customs .. ..	76,546
24	Posts and Telegraphs .. ..	Postmaster-General .. ..	406,453
25	Printing and Stationery .. ..	Government Printer .. ..	90,664
26	Agent-General in London .. ..	Secretary to the Treasury .. ..	10,183
27	Pensions, Allowances and Gratuities	" " " .. ..	27,400
28	Public Debt .. ..	" " " .. ..	572,532
29	Miscellaneous .. ..	" " " .. ..	20,000
30	Lands and Irrigation .. ..	Secretary for Lands .. ..	103,165
31	Surveys .. ..	Surveyor-General .. ..	34,908
32	Native Affairs .. ..	Secretary for Native Affairs ..	101,087
33	Public Works .. ..	Secretary for Public Works ..	401,938
34	Works and Bridges .. ..	" " " .. ..	204,319
			4,503,194
	Less Amount provided for by the Appropriation (Part 1908-09) Act 1908		500,000
	Total Ordinary Expenditure .. ..		£4,003,194

## EXTRAORDINARY EXPENDITURE.

Letter of Vote.	Title of Vote.	Accounting Officer.	Amount of Vote.
A	Extirpation of Cattle Disease	Director of Agriculture ..	£ 35,000
B	General Telephone Extension	Postmaster-General ..	40,168
C	Purchase of Cullinan Diamond	Secretary to the Treasury ..	15,000
D	Works and Bridges ..	Secretary for Public Works ..	226,700
		Total ..	£316,868

## SUMMARY.

Ordinary Expenditure .. .. .	£4,003,194
Extraordinary Expenditure .. .. .	316,868
	<hr/>
Gross Total .. .. .	<u>£4,320,062</u>

Act No. 15 of 1908.] [Promulgated 28th August, 1908.]

AN ACT

TO AMEND THE AUDIT AND EXCHEQUER ACT 1907.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Repeal of section *twenty* of Act No. 14 of 1907 and substitution of new provision.

1. Section *twenty* of the Audit and Exchequer Act 1907 shall be and is hereby repealed and the following provision substituted therefor:—

*For text see Act No. 14, 1907, section twenty.*

Title and date of operation of Act.

2. This Act may be cited for all purposes as the Audit and Exchequer Amendment Act 1908 and shall take effect from the date of its first publication as an Act in the *Gazette*.\*

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\*This date was the 28th Aug., 1908.

Act No. 16 of 1908.]

[Promulgated 28th August, 1908.]

## AN ACT

TO AMEND THE CRIMINAL LAW IN CERTAIN RESPECTS.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The Volksraad Resolution of the fourth and fifth days of December, 1871, Article No. 441, shall be and is hereby repealed.

Repeal of Volksraad Resolution of 4th and 5th December, 1871, Article 441.

2. Section *four* sub-section (*d*) of the Immorality Ordinance 1903 shall be and is hereby amended by the deletion of the words "is judicially separated and".

Amendment of section *four* of Ordinance No. 46 of 1903.

3. Section *nineteen* of the Immorality Ordinance 1903 shall be and is hereby amended by the deletion of sub-sections (1) and (2) thereof and the substitution therefor of the following new sub-sections:—

Amendment of section *nineteen* of Ordinance No. 46 of 1903.

*For text see Ordinance No. 46, 1903, section nineteen* (1) (2).

4. Section *twenty* of the Immorality Ordinance 1903 shall be and is hereby repealed and there shall be substituted therefor the following provisions:—

*For text see Ordinance No. 46, 1903, section twenty.*

Repeal of section *twenty* of Ordinance No. 46 of 1903 and substitution of new provisions therefor.

5. Sub-section (1) of section *twenty-one* of the Immorality Ordinance 1903 shall be and is hereby repealed and there shall be substituted therefor the following provisions:—

*For text see Ordinance No. 46, 1903, section twenty-one*

(1).

Repeal of sub-section (1) of section *twenty-one* of Ordinance No. 46 of 1903 and substitution of new provisions therefor.

6. Every male person who has or attempts to have unlawful carnal connection with a girl under the age of sixteen years or who commits or attempts to commit with a girl under such age immoral or indecent acts or who solicits or entices a girl under such age to the commission of immoral or indecent

Unlawful carnal connection etc. with girl under 16 years.



acts shall be guilty of an offence and liable on conviction to imprisonment with hard labour for a period not exceeding six years and to whipping not exceeding twenty-four strokes in addition to such punishment.

Conspiring to procure and inciting to the commission of offences.

7. Any person who—

(1) shall conspire with any other person to aid or procure the commission of any crime or offence; or

(2) shall incite, instigate, command, counsel, or procure any other person to commit any crime or offence;

shall be guilty of an offence and liable on conviction to the punishment prescribed by law for an attempt to commit such crime or offence.

Arson.

8. Any person who shall unlawfully and maliciously set fire to any building or structure shall be guilty of an offence and liable on conviction to imprisonment with hard labour for a period not exceeding ten years.

Framing of charges under Crimes Ordinance 1904.

9. In any charge or indictment for a contravention of sections *four, five, six, or eight* of the Crimes Ordinance 1904 it shall not be necessary to allege the particular offence with intent to commit which any act or acts are alleged to have been done by the person charged or indicted, and any such person who is proved to have committed an act or acts falling within the terms of the section under which he is charged or indicted shall be deemed to have contravened such section, unless he can prove to the satisfaction of the court before which he is tried that he did such act or acts without the intention of committing any offence.

Malicious or negligent grass burning.

10. ~~Article two of Law No. 2 of 1870 shall be and is hereby repealed, and the following provision substituted therefor:~~

~~For text see Law No. 2, 1870, article two.~~ *Repealed by sec. 1 of Act 130 of 1941.*

Custody of child under sixteen charged with crime.

11. Whenever any child under the age of sixteen years shall be charged with any crime or offence and either during his trial or within six months thereafter it shall appear to the court before which he is or has been tried or to a judge of the Supreme Court that the interests of such child would be best served by depriving his parents or guardians of his custody, the court or judge may order him to be removed from the custody of his parents or guardians and placed under the custody of such other person and subject to such conditions as such court or judge may think fit, and the court or judge may at any time set aside or vary such order, or revive the same, after it has been set aside until such child shall have attained the age of twenty-one years.

Custody of child under the age of eighteen years whose parent or guardian has been charged with crime.

12. Whenever any person shall be charged with any crime or offence and either during his trial or within one year thereafter it shall appear to the court before which he is or has been tried or to any judge of the Supreme Court that the interests of any child under the age of eighteen years, whose parent or guardian he is, would be best served by the removal of such child from the custody or control of such person, such court or judge may order that such child be removed from the custody and control of such person and be placed in the custody or under the control of such other person and subject to such

conditions as such court or judge may think fit, and the same court or any judge of the Supreme Court may at any time set aside or vary such order, or revive the same, after it has been set aside, until such child shall have attained the age of twenty-one years.

An order may be made under this section in respect of a child of a person convicted at any time before the coming into operation of this Act and still serving at the date of application for such order a sentence of imprisonment passed on such conviction.

\* 13. The Court by which any such order as is in section *nine* or *ten* of this Act mentioned is made may order the parent or guardian of the child the subject of such order to pay during the currency thereof either weekly or monthly to such person as the Court may direct such contribution towards the child's maintenance as may after enquiry appear reasonable, and may at any time set aside or vary such order or revive the same after it has been set aside. Any order made under this section shall have the effect of an ordinary judgment of the Court by which it is made.

Parent or guardian may be ordered to contribute towards child's maintenance.

14. The term "guardian" in sections *nine*, *ten* and *eleven* shall include any person who has in law or in fact the custody or control of a child.

Guardian defined.

† 15. This Act may be cited for all purposes as the Criminal Law Amendment Act 1908 and shall not come into operation unless and until the Governor shall, by proclamation in the *Gazette*, have declared that it is His Majesty's pleasure not to disallow it, and thereafter it shall come into operation on such date as the Governor may, by like proclamation, declare.

Title and date of operation of Act.

\* The references to sections *nine* and *ten* in this section should obviously be sections *eleven* and *twelve*.

† For Royal Assent and date of operation (1st December, 1908), see Proc. (Admn.) No. 102 of 1908.

Act No. 17 of 1908.] [Promulgated 28th August, 1908.]

\*AN ACT

TO PROVIDE FOR THE FORMATION, REGISTRATION AND MANAGEMENT OF CO-OPERATIVE AGRICULTURAL SOCIETIES.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

PRELIMINARY.

Interpretation of terms.

1. In this Act, unless inconsistent with the context;  
“ board ” shall mean the board of directors of a co-operative agricultural society;  
“ co-operative agricultural society ” or “ society ” shall mean a society formed for all or any of the objects set forth in section *four*;  
“ model regulations ” shall mean the regulations set forth in the Schedule to this Act or such regulations as altered or added to under section *six*;  
“ Minister ” shall mean the Minister of Agriculture,  
“ registrar ” shall mean the officer to whom for the time being under section *two* of this Act, have been assigned by the Minister the powers and duties thereby conferred or imposed in relation to the registration of co-operative agricultural societies;  
“ regulations ” shall mean, in relation to a co-operative agricultural society, the regulations or any alterations thereof or additions thereto registered in accordance with this Act.

CHAPTER I.

FORMATION OF CO-OPERATIVE AGRICULTURAL SOCIETIES.

Appointment, powers, and duties of registrar of co-operative agricultural societies.

†2. The Minister may from time to time assign to any officer in his department powers and duties in relation to the registration in accordance with this Act or any amendment thereof of co-operative agricultural societies, and such officer shall keep, in the form from time to time prescribed by the Minister, a register of co-operative agricultural societies and

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\* See Act No. 21 of 1909 and Act No. 17 of 1909.

† For assignment of powers and duties see Govt. Notice 988 of 1908 (*Gazette*, 2/10/08, p. 5).

carry out such other powers and duties as the Minister may, subject to this Act or any amendment thereof, confer or impose upon him.

3. (1) Any number of persons (not being less than seven) may, if qualified under this Act for membership of a co-operative agricultural society, form such society on complying with the provisions hereinafter contained and subject to the right of veto hereinafter conferred upon the Minister.

Formation of co-operative agricultural societies and qualification for membership.

(2) Any person carrying on farming operations in this Colony shall be qualified to be a member of a co-operative agricultural society.

† 4. A co-operative agricultural society may, subject to the provisions of this Act, be formed for all or any of the following objects, namely, of—

Objects for which co-operative agricultural societies may be formed.

(a) disposing of the agricultural produce and live stock of any of its members in the manner most profitable to the society; or

(b) manufacturing or treating on joint account the agricultural produce of its members and of disposing, in the manner most profitable to the society, of the produce so manufactured or partly manufactured; or

(c) initiating schemes of irrigation or water boring or of furthering and developing existing irrigation and water boring schemes; or

(d) purchasing, hiring, or otherwise acquiring, and working on behalf of its members, agricultural implements or machinery; or

(e) purchasing, hiring, or otherwise acquiring, and using and controlling on behalf of its members, breeding stock; or

(f) purchasing or otherwise acquiring on behalf of and supplying to its members agricultural implements and machinery, stock, feeding stuffs, seeds, fruit trees, manure, and other farming requisites; or

(g) commencing, acquiring, and carrying on supply stores under a co-operative system for disposing of and supplying agricultural produce or

(h) commencing and carrying on insurance societies for its members under a co-operative system; or

(i) acquiring and distributing information as to the best manner of carrying on farming operations profitably; or

(j) acquiring by lease, purchase, or donation, and holding, any immovable property in the Colony for the better carrying on of any of the objects of the society; or

(k) raising money on loan for any of the lawful objects of the society; or

(l) any other lawful object which the Minister may from time to time permit for furthering the interests and development of agriculture in this Colony.

† See, however, Act No. 21 of 1909, sec. 1.

Application for registration of co-operative agricultural societies.

5. (1) Within one month after the formation of any co-operative agricultural society, or in the case of a society formed before the date of the operation of this Act, within six weeks after such date, application shall be made to the registrar, in the form from time to time prescribed by the Minister, for the registration of such society under this Act.\*

(2) With such application there shall be transmitted the regulations of the society which has been formed, or, if no such regulations have been adopted, a copy of the model regulations.

(3) In the event of non-compliance with the provisions of sub-section (1) by any person or body of persons formed into a co-operative agricultural society, every such person and every member of such body shall be liable on conviction, for every day on which such non-compliance has continued, to a fine not exceeding five pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

(4) For the purposes of this section a society shall be deemed to have been formed if it carries on operations as a co-operative agricultural society, or uses as part of its name the word "co-operative" in conjunction with the term "agricultural society" or other term importing a similar meaning, or holds itself out in any manner as a co-operative agricultural society.

Model regulations of Schedule may be adopted.

6. (1) Any society which it is proposed to register under this Act may adopt as its regulations all or any of the model regulations set forth in the Schedule to this Act.

(2) Upon any registration under this Act of a society, in so far as any regulations tendered for registration are not inconsistent with or do not exclude or modify the model regulations, the model regulations shall form part of the regulations of that society in the same manner and to the same extent as if they were contained in the regulations tendered, and shall be registered as part of such regulations.

†(3) The Minister may from time to time alter, add to, or rescind any of the model regulations and any such alteration or addition shall on publication in the *Gazette* have the same force and effect as if they had been in such Schedule contained; provided that no alteration of, addition to, or rescission of the model regulations shall apply to any society which has adopted the model regulations or registered regulations of which any of the model regulations form part, unless the alteration, addition, or rescission be adopted by the society in general meeting in accordance with the provisions of section *nine* and *nineteen*.

(4) Every alteration of, addition to, or rescission of any of the model regulations shall be laid by the Minister on the Tables of both Houses of Parliament within seven days after

\* For rules re applications for registration, see Govt. Notice No. 989 of 1908 (*Gazette*, 2/10/08, p. 5).

† For alterations, additions, etc., see Govt. Notices Nos. 121 of 1909 (*Gazette*, 22/1/09) and 907 of 1909 (*Gazette*, 6/8/09) (embodied in schedule).

the publication thereof in the *Gazette* if Parliament be then in session or, if it be not then in session, within seven days after the commencement of its next ensuing session.

‡ 7. (1) No society formed after the date of the operation of this Act shall be registered unless the members shall have first held a meeting at which there has been presented a written report stating—

Preliminary procedure prior to obtaining registration.

- (a) the objects of the society;
- (b) a list of the promoters;
- (c) the business prospects of the society, and facts and statistics calculated to show that, when registered, it will be able to carry out its objects successfully;
- (d) a copy of the regulations which it is proposed to tender for registration.

(2) If, after consideration of such report and the documents comprised or referred to therein, a majority of the meeting shall approve the same, the meeting shall proceed to select the directors of the society and a person qualified as prescribed in section *twenty-one* as its first auditor in accordance with the provisions of section *twelve* and the regulations of the society.

(3) A copy of any such report together with a list containing the names, addresses, and occupations of the existing members, shall be transmitted to the registrar when the application for registration is made.

8. (1) The registrar shall not register any society unless the regulations tendered with the application comply with and are in no way repugnant to or inconsistent with the provisions of this Act, nor until all other provisions of this Act in respect of registration have been complied with.

Contents of regulations and registration of societies by registration of regulations.

(2) The regulations shall be divided into paragraphs numbered consecutively and shall set forth (*inter alia*)—

- (a) the proposed name of the society with the word "co-operative" as part of its name;
- (b) a correct and full description of the locality and premises where the office of the society is to be situate;
- (c) the objects of the society;
- (d) the period for which the society is to be established;
- (e) the manner in which the capital of the society is to be raised or procured;
- (f) the mode and conditions of admission to membership of the society and the circumstances permitting of resignation or justifying exclusion or expulsion therefrom and the rights and liabilities of members, resigned members, expelled members, whether as between the society and themselves or between each other;
- (g) the number of directors of the society, and the powers and duties of directors and other officers;
- (h) the intervals between the holding of general meetings of the society (not exceeding in any case an interval of six months), the requisite notices of and procedure at

‡ See, however, Act No. 21 of 1909, sec. 2.

meetings (including the particular rights of members in voting thereat and the manner of voting and the majority necessary for carrying any particular class of resolution); (i) the mode of managing the funds of the society, of keeping and auditing its accounts, of the keeping of registers of members;

and may provide for the settlement by arbitration of disputes arising between members or between the society and any member, resigned member, or expelled member.

(3) The regulations which it is proposed to register shall be tendered in duplicate to the registrar who shall submit the same to the Minister. The Minister may in his discretion veto the registration of any society, but if within a period of one month he shall not exercise his right of veto and if the provisions of this Act have been complied with, the registrar shall register the regulations, file one duplicate in his office and return the other with the date of registration endorsed thereon to the society.

(4) The regulations so tendered for registration shall be signed by not less than seven persons each of whose signatures shall be attested by at least one witness.

(5) A fee of one pound denoted by means of revenue stamps shall be payable to the registrar upon registration, and such stamps shall as soon as registration is approved by him, be affixed to the application for registration and defaced by the registrar.

(6) As soon as registration of a society has been so effected, the registrar shall transmit to the office of the society a certificate of registration, in the form prescribed by the Minister, which shall in all courts and places be conclusive evidence of the facts stated therein. Upon receipt of such certificate such society shall be deemed for all purposes to be a co-operative agricultural society under this Act, and to have all the rights, powers, privileges, and duties by this Act or any amendment thereof, or the Land and Agricultural Bank Act 1907 or any amendment thereof, or by any other law conferred or imposed on co-operative agricultural societies and shall be thereupon entitled to commence or, if formed before the date of the operation of this Act, to continue operations, as a co-operative agricultural society.

Alteration of regulations.

9. (1) Any part of the regulations of a society may be altered from time to time by the members thereof in general meeting subject to the provisions of section *nineteen*.

(2) Every alteration of regulations so made shall, within one month thereafter, be tendered to the registrar for registration who shall, subject to a power which is hereby conferred upon the Minister of refusing to allow the alteration, register the same and thereupon the regulations of the society as originally registered shall be read subject to the alteration.

(3) The provisions of sub-sections (3), (4) and (5) of the last preceding section shall apply in respect of the registration of regulations so altered.

10. It shall be a condition of membership of every society that all its members shall be jointly and severally liable for payment of the obligations of the society provided that the liability of the estate of any person who has died or any person who has resigned his membership or has been expelled from the society shall cease—

Liability of members.

(a) in respect of any of its obligations incurred after his decease or after he has ceased to be a member; and in all respects

(b) as soon as the financial statements of the society signed by its auditor as hereinafter provided discloses a credit balance in favour of the society.

11. (1) No society shall be required to have any fixed capital.

Funds of the society.

(2) The funds necessary for carrying on the operations of the society shall consist of—

(a) capital funds—including any loans raised by the society—any stock in trade of the society and any securities for loans advanced by the society to members;

(b) revenue funds—including entrance fees of members, the reserve fund (if any) of the society and undistributed profits (if any) of the society.

(3) No part of the funds of any society shall be divided amongst its members by way of profit, bonus, dividend, or in any other manner than is authorized by its regulations in respect of credit balances due to members.

## CHAPTER II.

### MANAGEMENT OF CO-OPERATIVE AGRICULTURAL SOCIETIES.

12. (1) The operations of every society shall be managed and controlled by a board of directors consisting of not less than five nor more than seven of the members of the society who shall be elected at the annual general meeting thereof.

Directors of societies.

(2) Subject to the provisions of this section the directors shall be elected in manner prescribed by the regulations of the society and subject to the next succeeding section shall hold office and retire as so prescribed.

(3) The directors shall hold meetings as often as may be necessary for properly conducting the business and operations of the society, but in no case at intervals exceeding one month, unless it has been impossible to obtain a quorum, in which case a meeting shall be held as soon as it is so possible.

(4) Three directors shall be the quorum of any meeting of directors.

(5) The directors shall, at the first meeting of the board held after the annual general meeting elect one of their number to be chairman until the next annual general meeting and if any vacancy occur during the year in the office of chairman it shall be filled as soon as a meeting of the board can be convened.



Vacation of  
office by  
Directors.

13. (1) A director shall vacate his office—  
 (a) if he become insolvent or assigns his estate for the benefit of or compounds with his creditors; or  
 (b) if he die or become of unsound mind, or is convicted of an offence and sentenced to any period of imprisonment without the option of a fine; or  
 (c) if he absents himself from four consecutive ordinary meetings of the board without its leave (and such leave shall not be granted for a period covering more than six consecutive ordinary meetings, unless the absence be on the business of the society); or  
 (d) he resigns his membership of the society or is lawfully expelled therefrom; or  
 (e) if he give one month's notice in writing to the board of his intention to resign office and his resignation be accepted by the board.

(2) Any vacancy so occurring shall be filled as prescribed by the regulations of the society.

Powers of  
board of  
directors.

14. (1) Subject to the provisions of sub-section (2) of this section, to the regulations of the society, and to any restrictions thereby imposed on the powers of the board or of the directors, the board shall have the same powers and be subject to the same obligations in respect of the society as if they had been conferred or imposed by a general meeting of the society, and every director acting upon a resolution of the board shall be deemed to be the agent of the society for all purposes within the scope of its objects *or under the*

(2) No loan *or under the* shall be raised by the board involving a liability of the society exceeding the amount of one hundred pounds unless the same has been sanctioned by a general meeting of the society specially convened for the purpose of considering the proposal to raise such loan *or under the*

(3) Subject to his compliance with the provisions of this Act, no director shall be held liable to the society for any loss it may sustain unless the loss was due to his wilful misconduct or gross negligence.

Financial  
year.

15. Unless it is otherwise provided in the regulations of the society, the financial year shall be from the first day of July to the thirtieth day of June next ensuing, both days inclusive.

General  
meetings of  
societies.

\*16. (1) A general meeting of every society shall be held within six weeks after the close of the society's financial year for the purpose of considering and dealing with the financial position and the balance-sheet and statement of accounts of the society and for the election of directors and auditor and for general business. Such meeting shall be called the annual general meeting and shall be held at such convenient place and time as shall be prescribed by the board.

(2) In addition to the annual general meeting the board, or any two directors jointly signing the notice, may by written notice convene a special general meeting of the society when

\* See, however, Act No. 21 of 1909, sec. 4.

the holding of such meeting appears necessary in the interests of the society, and the board shall convene such meeting if a requisition in writing signed by one-fifth of the members of the society be transmitted to the board.

(3) If within fourteen days after the transmission of such requisition a special meeting be not convened by the board, it may be convened by the requisitionists.

(4) The periods and forms of notice of annual and special general meetings of the society shall be as prescribed by the regulations of the society.

17. (1) The chairman of the directors, if present, shall, unless the meeting otherwise determine by resolution, be the chairman of any general meeting.

Procedure at general meetings of society.

(2) No item of business shall be transacted at any general meeting unless a quorum of members is present during the time when the meeting proceeds to consider that item.

(3) One-fifth of the members of the society shall be a quorum thereof; provided that a quorum shall in no case consist of less than five members.

(4) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place, and if at such adjourned meeting a quorum is not present within one hour from such time, the members present shall constitute a quorum.

18. (1) Save as is otherwise provided in this Act or the regulations of the society every question for decision by a general meeting shall be determined by a majority of members present thereat, and on a show of hands unless a poll be demanded by at least five members.

Voting at meetings.

(2) The declaration by the chairman that a question to be so decided has been carried, or carried unanimously, or by a particular majority, or lost and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against the resolution.

(3) A poll, if demanded, shall be taken forthwith but in the manner prescribed by the regulations of the society.

(4) The chairman of the meeting shall, in addition to his deliberative vote, have also a casting vote in the case of an equality of votes, whether on a show of hands or on a poll, unless it is otherwise provided by the regulations of the society.

\*19. Notwithstanding anything in section *seventeen* or *eighteen* or in the regulations of a society contained—

Special provision as to alteration of regulations, etc.

(a) no loan <sup>or borrowing</sup> involving a liability of the society exceeding one hundred pounds shall be raised and no alteration of its regulations shall be made unless the loan or alteration (as the case may be) has been approved by two-thirds of members of the society; and

(b) no alteration of the regulations affecting the reserve fund of the society shall be made, unless approved by five-sixths of the members;

\* See, however, Act. No. 21 of 1909, sec. 5.

and in every such case the question of such loan or alteration shall not be considered except at a special meeting convened for that purpose and at which all votes are recorded in person. If an insufficient number of members be present or, a sufficient number being present, an insufficient number vote at the meeting, it shall be adjourned to a date and place to be fixed by two-thirds of the members present, and the meeting shall be constituted in the manner hereinbefore in this section stated.

Minutes of general meetings of society and meetings of directors to be kept.

20. (1) Minutes of the proceedings at all general meetings and of every meeting of the board shall be regularly entered in separate books kept for the purpose and containing proper tabulated details of the business conducted at the meeting.

(2) The minutes and proceedings of each meeting shall be submitted at the next ensuing meeting and, if passed thereat as correct, shall be confirmed by the chairman thereof and shall thereupon without further proof be *prima facie* evidence in all courts and places of the proceedings of the meeting of which they purport to be minutes.

(3) Every such minute book shall be kept at the office of the society and shall be open to inspection of any person authorized thereto in writing by the Minister.

Auditor of society.

21. (1) Every society shall at each annual general meeting appoint a person who publicly carries on the business of an accountant as the auditor of its accounts for the current financial year. The retiring auditor shall be eligible for re-election.

(2) If an appointment of such person as auditor be not made at that meeting, the Minister on the application of any member of the society may appoint an auditor qualified as aforesaid to hold office till he has audited the accounts of that year.

(3) The Minister may at any time appoint an auditor or auditors to investigate and report upon the books, accounts, and affairs of any society.

(4) A director or officer of the society shall not be capable of being appointed its auditor.

(5) A casual vacancy in the office of auditor may be filled by the directors by appointing a person qualified as aforesaid to hold office till the audit of the accounts of that year is completed.

(6) The remuneration of the auditor shall be fixed by the society in general meeting; provided that—

(a) the Minister may fix the remuneration of an auditor appointed under sub-section (2), and

(b) the directors may fix the remuneration of an auditor appointed under sub-section (5).

All such remuneration shall be payable out of the revenues of the society.

(7) Every auditor appointed under this section shall have a right of access to the books, accounts, and vouchers of the society and may require from its directors and other officers such information as may be necessary for the performance of his duties as auditor.

(8) In making any report to the members of the society or in signing the statements mentioned in the next succeeding section the auditor shall state—

(a) whether he has obtained the information and explanation required by him; and

(b) whether in his opinion the statements are properly drawn up so as to exhibit a true and correct view of the financial position of the society according to the information at his disposal and explanations given to him and as shown by the books of the society.

22. (1) Not less than three weeks before the date fixed for the annual general meeting the board shall prepare the balance-sheet and profit and loss account and a financial statement made up to the close of the previous financial year of the society in such form as shall be prescribed by the Minister.

Preparation and publication periodically of financial statements of the position of the society.

(2) Such balance-sheet profit and loss account and financial statement signed by a majority of directors and by the auditor of the society, if approved by him after examination of the accounts of the society, shall be transmitted to each member of the society with the notice of such general meeting or in the alternative if it be so provided by the regulations of the society, such statements shall be open to inspection of members at its offices for a period to be fixed by those regulations.

(3) Such balance-sheet account and statement aforesaid signed as aforesaid shall further be published in a newspaper circulating in the district in which the society's office is situate.

(4) Such balance-sheet account and statement aforesaid signed as aforesaid shall further be transmitted to the Minister who may in any case he deems advisable submit the same for report to any auditor nominated by him.

23. (1) Every society shall keep at its office and open to inspection at all reasonable hours—

(a) a complete list of its members showing the name, address, and occupation of each member; and

(b) a correct copy of its regulations with any alterations therein made and registered under this Act; and

(c) a list of the directors showing the name, address, and occupation of each director.

(2) *Repealed by Act No. 21, 1909, section three (9).*

Keeping of lists of members, etc., and transmission of same to registrar periodically.

### CHAPTER III.

#### DISSOLUTION OF CO-OPERATIVE AGRICULTURAL SOCIETIES.

24. (1) A society may be dissolved—

(a) by resolution of a special general meeting called for the purpose passed by two-thirds of the members of the society such members being personally present; and in such event any person or persons may at such meeting be appointed to wind up the affairs of the society, or if no such persons are appointed, the directors shall wind up the affairs of the society;

Circumstances under which societies may be dissolved.

(b) on the order of the Supreme Court or a judge thereof or of any circuit court having jurisdiction in the district where the society's office is situate, provided application be made for dissolution by a person who would if such society were a company registered in this Colony under the law for the time being regulating the registration and winding up of registered companies have been entitled to obtain an order for the compulsory winding up of companies.

(2) If the society is dissolved under paragraph (a) of sub-section (1) after all the liabilities and obligations present or contingent of the society have been discharged the surplus (if any) including the reserve fund (if any) shall be distributed among existing members in proportion to the aggregate of the sale moneys on account of each member by the society during the last preceding three years or, if the society has not existed for such period, during the existence of the society.

(3) If the society is dissolved under paragraph (b) of sub-section (1) the court exercising jurisdiction to dissolve may in its discretion apply any provision of the law for the time being in force regulating the winding up of registered companies as if the society were a registered company, and if any assets remain over after satisfying the liabilities and obligations of the society, and the costs of the dissolution the same shall be distributed in accordance with the provisions of sub-section (2) of this section.

(4) A society shall be dissolved without any such resolution thereof or order of court when the number of its qualified members is reduced below seven or when the period (if any) fixed for the duration of the society by its regulation expires, or whenever any event occurs upon the occurrence of which the regulations provide that the society is to be dissolved.

Upon such dissolution the provisions of paragraph (a) of sub-section (1) of this section shall apply without prejudice however to any application to court that may be made under paragraph (b) of such sub-section and if such application be made the provisions of sub-section (3) shall apply.

25. Whenever a society has been dissolved under the last preceding section the directors thereof shall if the dissolution be by resolution or under sub-section (4) or if the dissolution be by the court the officer registering orders of such court shall within fourteen days of the dissolution give notice thereof to the registrar who shall thereupon remove the name of the society from his register of societies.

## CHAPTER IV.

### MISCELLANEOUS.

\* 26. Notwithstanding anything in the Revenue Licenses Ordinance 1905 or any bye-law or regulation in force within a local authority's jurisdiction, it shall not be obligatory upon any society to obtain a licence to trade or carry on business

\* The exemption under this section extended by Act No. 21 of 1909, sec. 6.

Removal of dissolved societies from register.

Exemption of societies from obligation to obtain trading licenses in certain respects.

in so far as the trade or business carried on is exclusively with the members of the society or in so far as the goods sold by it are the agricultural produce of this Colony or to deposit with the Colonial Treasurer the securities required by Law No. 8 of 1898.

27. If a society continues to carry on its operations when the number of its members (qualified to be members in accordance with section *three*) is reduced below seven, for a period of one month after the number is so reduced, every person who is a member of the society during the time that it continues to carry on its operations after such period, and is cognisant of the fact that it is so carrying on its operations with less than seven qualified members shall be liable to a fine of five pounds for every day during which the operations are so carried on and shall further be severally liable to satisfy all the obligations of the society incurred during such time, and may be sued for the same without any other member being joined in the action.

Penalty if society continues operations after number reduced below seven.

28. If any person shall wilfully make in any return, report, financial statement or balance-sheet or other document required for the purposes of this Act, a statement false in any material particular, knowing it to be false, he shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding one year, or to such period of imprisonment without the option of a fine.

Penalties for wilful false statements in documents required by this Act.

29. Any director or officer of a society who shall accept any commission, fee or reward, whether pecuniary or otherwise, from any person for or in connection with a transaction of such person with the society shall be guilty of an offence and liable on conviction to the penalties mentioned in the last preceding section, and shall further be liable to make good to the society double the value or amount of such commission fee, or reward.

Penalty on director or officer accepting commissions, etc.

30. Any person who shall, where no penalty is expressly provided, fail to comply with any requirement of this Act within the time or in the manner thereby prescribed or commit any other contravention thereof, shall be liable on conviction to a fine not exceeding twenty-five pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

Penalty for contravention for which no penalty expressly provided.

†31. (1) All legal proceedings by or against any society shall be instituted or taken in the name of the society.

Legal proceedings by or against society.

(2) If judgment has been obtained against the society and such judgment is not within three months thereafter satisfied the plaintiff may proceed against all members or any member of such society in respect of such liability.

(3) Save as aforesaid no legal proceedings shall lie against a member of a society individually in respect of an obligation of the society.

† See Act No. 17 of 1909, sec. 11, as to Land and Agricultural Bank.

Registration and vesting of property of societies.

32. (1) Any immovable property acquired and held by a society under this Act or its regulations may be registered in the name of the society without reference to the names of the members thereof.

(2) All movable property acquired and held by the society shall be deemed in all legal proceedings, civil or criminal, to be vested in the society.

Title and date of operation of Act.

33. This Act may be cited for all purposes as the Co-operative Agricultural Societies Act 1908, and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.\*

SCHEDULE.

A.

MODEL REGULATIONS FOR CO-OPERATIVE AGRICULTURAL SOCIETIES.

NAME.

1. The name of the Society is.....

OFFICE.

2. The office of the Society will be situate at.....

OBJECTS.

3. The objects of the Society are

(a) to dispose of the produce of the members in the most profitable manner; and

(b) to supply the members with the necessary implements, seeds, artificial manures, etc., and generally to promote the interests of the members;

†(c) to raise money from the Land and Agricultural Bank or otherwise for any of the objects of the Society.

TIME OF ESTABLISHMENT.

4. The Society shall be established for a period of.....years which period may be extended from time to time.

CAPITAL.

5. The capital of the Society shall consist of

(1) entrance fees paid by members, reserve funds and credit balances due to members;

(2) loans on the following security:—

(a) The members to jointly and severally guarantee the Society's obligations.

(b) Any stock in trade of the Society.

FINANCIAL YEAR.

6. The financial year of the Society shall be reckoned from the..... to the.....

MEMBERSHIP.

*Entrance.*

7. *Bona fide* farmers of European descent may become members by application to the board of directors.

8. The board of directors has the right to accept applicants for membership on the basis of these regulations or to reject such applicants without assigning any reasons for doing so.

\* See Proc. 84 Admn. 1908 (*Gazette*, 25th Sept., 1908, p. 1114), fixing date of coming into operation of Act as the 1st Oct., 1908.

† Added by Govt. Notice No. 907 of 1909 (*Gazette*, 6/8/09).

9. Every member must at time of entrance sign his name in the members' book, and by his signature bind himself to the existing regulations, and to any additional regulations or alterations to regulations which may be lawfully made from time to time without any notice whatever from the Society being required.

10. The entrance fees for members will be fixed at the ordinary general meeting to be held in..... This entrance fee will be added to the reserve fund.

11. The widow of a deceased member may, subject to the approval of the directors, become a member in place of the deceased, and take over his rights and obligations, or the heirs shall be entitled to receive..... per cent. of the deceased's interest in the Society, the balance to be added to the reserve fund.

#### RESIGNATION.

12. A member may resign at the end of a financial year, provided he has given the secretary three months' prior notice in writing. The acknowledgment of such notice of resignation must be made in writing by the secretary, with as little delay as possible.

13. A member can be expelled from the Society by a majority of two-thirds of the members present and voting at a special general meeting called for the purpose.

14. Resigned or expelled members have no claim on the reserve fund or other property of the Society.

#### DIRECTORS.

15. The board of directors shall consist of.....members to be elected for a period of..... At each annual general meeting .....directors, whose names shall be determined by ballot, shall retire. Retiring directors may be re-elected. Any vacancies shall be filled by the remaining directors until a general meeting can be called for the purpose.

16. The directors shall act in the name of the Society and they shall exercise, within the limits of these regulations, the same power as if they had been determined at a general meeting. The directors shall report and account for all their transactions at each general meeting and special general meeting when called upon so to do.

17. The directors shall meet as often as is necessary, at least once a month, and their positions shall be honorary, but travelling and out-of-pocket expenses shall be refunded when they are travelling on duty.

18. The directors may engage a sufficient staff to carry on the work of the Society, and by contracts fix their salaries and determine the work to be carried out by the employees. They also have the right of suspension and dismissal.

19. The directors shall see that proper books are used and kept up to date, and also look after the property of the Society.

20. The directors shall open a banking account, into which all money received shall be deposited as soon as feasible after receipt. All cheques must be signed by the chairman, or in his absence by the....., and countersigned by the secretary.

#### GENERAL MEETINGS.

21. An annual general meeting of members shall be held within six weeks after the close of the Society's financial year to transact the business mentioned in sections *sixteen* and *twenty-two* of the Act.

22. All questions submitted to a meeting shall be decided by a majority of votes except where otherwise provided by these regulations.

23. In addition to the business prescribed by law the agenda of the annual meeting shall include—

- (a) a general report by the directors;
- (b) the discussion of complaints that may arise from members;
- (c) the discussion of any proposal that may be made;
- (d) the payment of members' credit balances.

24. No alteration of the present regulations shall be made except at a meeting specially called for the purpose. If a quorum be not present at such meeting the provisions of section *seventeen* of the Act shall apply.

25. All meetings shall be convened by notice posted to members at their addresses fourteen days at least before the day appointed for the meeting.



SPECIAL GENERAL MEETINGS.

26. A special general meeting can be called at any time on a requisition being sent to the directors, signed by one-fifth of the members of the Society.
27. The board of directors or any two of them can also call a special general meeting at any time they think fit.
28. In each case the same notice should be given as in the case of an ordinary general meeting.

REGULATIONS REGARDING SUPPLY OF PRODUCE.

29. Every member shall bind himself to sell the whole of his produce, viz., .....through the Society, with the exception of what he requires for his own consumption.
30. The members must inform the directors of the Society, in writing, of the kind, quality, and quantity of their harvest immediately after reaping. The directors will then, with as little delay as possible, inform the members where and within which time their produce must be supplied.
31. All produce will be received according to regulation 30, and graded, provided it is of good order and condition.
32. All products shall, whenever possible, be sold according to weight.
33. If a crop of a member be damaged or destroyed, through circumstances beyond his control, so that he cannot fulfil his engagements towards the Society, he will be relieved of his obligations in respect of such crop if he instantly advises the directors to that effect. If, however, he omits to supply without such reason, he shall be responsible for any loss and damage the Society might sustain through his omission.

REGULATIONS REGARDING SUPPLY OF FARMING IMPLEMENTS,  
SEEDS, ARTIFICIAL MANURES, ETC.

34. Every member shall bind himself to buy all his requirements of the above articles through the Society, when the Society is in a position to supply.
35. The Society shall supply the above articles at cost price, plus a certain percentage to cover expenses.
36. Any surplus will be divided according to regulation..... but buying and selling accounts will be kept separately.

REGULATIONS OF PAYMENT TO MEMBERS.

37. Members may receive an advance up to.....per cent. on their produce other than perishables at the time of delivery.
38. The credit balance of each member will be paid, less.....per cent. on the whole amount, to cover expenses at the end of the financial year on the basis of an average price, provided the goods are sold.
- Or (alternative clause)*
- The credit balance of each member will be paid, less.....per cent. on the whole amount, to cover expenses as soon as the goods are sold.
39. After having deducted all the expenses of the Society, and after having got a sufficient working capital, the amount of which is to be fixed by the general meeting, the surplus will be divided amongst the members according to the turn-over of each member during the financial year.

GENERAL REGULATIONS.

40. Any person who has charge of any money, or other property, of the Society, shall give such security as the directors require.
41. All communications to the Society should be addressed to the secretary.
42. Only members can supply and receive goods through the Society.
43. All business transactions of the Society must be cash or against proper security.
44. The Society shall insure itself against damages which may be due to members for loss sustained by members' goods being left on the Society's premises, and also keep its own property insured against fire at their full value.
45. ....per cent. depreciation must be written off on all property of the Society every year.
46. Should any dispute arise with regard to the regulations of the Society which cannot be amicably adjusted a special general meeting will be called, and three members elected as arbitrators. The decision of the arbitrators is final and cannot be appealed against.

DISSOLUTION OF THE SOCIETY.

47. The Society may be dissolved by a resolution of a special general meeting called for the purpose passed by two-thirds of the members of the Society, such members being personally present.

48. In case of dissolution, the debts of the Society will be paid off and other engagements fulfilled. The surplus, including the reserve fund, will then be distributed amongst the members according to the turnover of each member during the last three years. In case of any deficiency such must be borne equally by the members.

B.

MODEL REGULATIONS FOR CO-OPERATIVE CREAMERIES.

NAME.

1. The name of the Society is.....  
Co-operative Creamery.

OFFICE.

2. The office of the Society will be situate at.....

OBJECTS.

3. The objects of the Society are

(1) to establish a creamery to work, on joint account, the milk and cream supplied by the members;

(2) to collect eggs from members;

(3) to sell the manufactured or unmanufactured product in the most profitable manner;

(4) to establish a piggery, if deemed desirable;

\* (5) to raise money from the Land and Agricultural Bank or otherwise for any of the objects of the Society.

TIME OF ESTABLISHMENT.

4. The creamery shall be established for.....years.

CAPITAL.

5. The capital of the Society shall consist of

(1) members' entrance fees, reserve fund, and credit balances not distributed;

(2) loans raised either from the Land Bank on members' joint and several guarantee and a mortgage on the property of the Society or through the issue of debentures at a fixed interest.

FINANCIAL YEAR.

6. The financial year of the Society shall be reckoned from the..... to the.....

MEMBERSHIP.

7. Membership is personal, and only *bona fide* farmers of European descent may become members.

8. Any new member wishing to join must send a written application to the board of directors stating the number of milk cows in his possession. The board of directors will, at their next meeting, decide whether membership may be granted.

9. Every member must, at time of entrance, sign his name in the members' book, and, by his signature, be bound by the existing regulations, and any additional regulations and alterations to the regulations which may be lawfully made from time to time without any notice whatever from the Society.

10. The entrance fee for a member will be.....for each cow. The conditions on which new members will be admitted will, however, be decided upon in each year at the ordinary general meetings in.....

11. A widow of a deceased member may, subject to the approval of the directors, become a member in the place of the deceased, and take over his rights and obligations.

\* Added by Govt. Notice No. 907 of 1909 (*Gazette*, 6/8/09).

RESIGNATION.

12. A member may resign at the end of the financial year provided he has given the secretary three months' notice in writing. The acknowledgment of such notice of resignation must be made in writing by the secretary with as little delay as possible.

13. A member can be expelled from the Society by a majority of two-thirds of the members present and voting at a special general meeting called for the purpose.

14. Resigned or expelled members have no claim on the reserved fund or other property of the Society.

DIRECTORS.

15. The board of directors shall consist of.....members, to be elected for a period of..... At each annual general meeting.... directors, whose names shall be determined by ballot, shall retire. Retiring directors may be re-elected.

16. In case of resignation of directors, the vacancy or vacancies shall be filled by the directors until a general meeting can be called for the purpose.

17. The board of directors will act in the name of the Society, and their transactions, within the limits of these regulations, shall have the same power as if they had been resolved at a general meeting. The directors will, however, have to report and account for their transactions before each general meeting or special general meeting called for the purpose.

18. The directors shall meet as often as is necessary at least once a month, and their positions shall be honorary, but travelling and out-of-pocket expenses shall be refunded when travelling on duty.

19. The directors may engage a sufficient staff to carry on the work of the Society, and by contracts fix their salaries and determine the work to be carried out by the employees. They also have the right of suspension and dismissal.

20. The directors shall see that proper books are used and kept up to date, and also look after the property of the Society.

21. The directors shall open a banking account into which all moneys received shall be deposited as soon as feasible after receipt. All cheques must be signed by the chairman, or in his absence by....., and countersigned by the secretary.

22. The board of directors have the right to investigate and check, and if required, correct the statement of members required according to..... and also, if an offence be repeated, to fine the member with a sum not exceeding 5s. per cow. Such fines will be added to the reserve fund.

GENERAL MEETINGS.

23. An annual general meeting of members shall be held within six weeks after the close of the Society's financial year to transact the business mentioned in sections *sixteen* and *twenty-two* of the Act.

24. All questions submitted to a meeting shall be decided by a majority of votes except where otherwise provided by these regulations.

25. In addition to the business prescribed by law the agenda of the annual meeting shall include

- (a) a general report by the directors;
- (b) the discussion of complaints that may arise from members;
- (c) the discussion of any proposal that may be made;
- (d) the payment of members' credit balances.

26. No alterations of the present regulations shall be made except at a meeting specially called for the purpose. If a quorum be not present at such meeting the provisions of section *seventeen* of the Act shall apply.

27. All meetings shall be convened by notice posted to members at their addresses fourteen days at least before the day appointed for the meeting.

SPECIAL GENERAL MEETING.

28. A special general meeting must be called at any time on requisition being sent to the directors, signed by one-fifth of the members of the Society.

29. The board of directors or any two of them can also call a special general meeting at any time they think fit.

30. In each case the same notice must be given as in the case of an ordinary general meeting.

REGULATIONS REGARDING THE SUPPLY OF MILK, EGGS, ETC.

31. Each member shall bind himself to supply the whole of his production of eggs and milk or cream as may be arranged, with the exception of what he requires for his own consumption.

32. Every member must, every year, state to the board of directors, before the....., the number of milk cows he possesses. If this number exceeds the number for which he has paid an entrance fee, an additional fee, which has to be fixed at the general meeting, will be charged per additional cow.

33. The milk supplied by the members must, as far as possible, be treated as described in the leaflet on "Milk Treatment," to be obtained from the Government Printer, P.O. Box 373, Pretoria.

34. An officer of the Society under the supervision of the board of directors shall carry out the checking and testing of milk supplied to the Society. Such tests shall be introduced as may be deemed desirable by the board of directors.

35. Milk will be paid for according to weight and fat percentage, on the basis of the Gerber test.

36. Eggs will be paid for by weight, and only fresh eggs will be accepted.

REGULATIONS OF PAYMENT TO MEMBERS.

37. The members may receive at the beginning of every month an advance up to.....per cent. of the probable value of the milk supplied to the creamery during the previous month.

38. The balance, after the *pro rata* expenses have been deducted, will be paid to members at the end of the financial year.

39. In case of anybody resigning after the expiration of ten years or dying or removing outside the district within this time, .....per cent. of his interest in the dairy will be repaid, the rest going to the reserve fund of the Society.

GENERAL REGULATIONS.

40. Any person who has charge of any money, or other property of the Society, shall give such security as the directors may require.

41. All communications to the Society must be addressed to the secretary.

42. Only members can supply to the creamery, and same are understood to be owners according to the number of cows they may possess and have paid entrance fee for.

43. All business transactions of the Society shall be cash or against proper security.

44. All goods the property of the Society must always be kept insured against fire at their full value.

45. ....per cent. depreciation must be written off on all machinery and plant every year.

46. ....per cent. amortisation must be written off on any loan every year.

47. Should any dispute arise with regard to the regulations of the Society which cannot be amicably adjusted, a special general meeting will be called and three members elected as arbitrators. The decision of the arbitrators is final and cannot be appealed against.

DISSOLUTION OF THE SOCIETY.

48. The Society may be dissolved by a resolution of a special general meeting called for the purpose passed by two-thirds of the members of the Society, such members being personally present.

49. In case of dissolution, the debts of the Society will be paid off and other engagements fulfilled. The surplus, including the reserve fund, will then be distributed amongst the members according to the turnover during the last three years. In case of any deficiency such must be borne equally by the members.

C.

MODEL REGULATIONS FOR FRUIT GROWERS' CO-OPERATIVE ASSOCIATIONS.

NAME.

1. The name of the Association is.....

OFFICE.

2. The office of the Association will be situate at.....

OBJECTS.

- 3. The objects of the Association are
  - (a) to dispose of the products of the members in the most profitable manner, and
  - (b) to supply the members with the necessary implements, seeds, artificial manures, etc., and generally to promote the interests of the members,
  - \* (c) to raise money from the Land and Agricultural Bank or otherwise for any of the objects of the Society.

TIME OF ESTABLISHMENT.

- 4. The Association will be established for a period of.....years.

CAPITAL.

- 5. The capital of the Association shall consist of
  - (1) Entrance fees paid by members, reserve funds, and credit balances not distributed.
  - (2) Loans on the following security :—
    - (a) The members to jointly and severally guarantee the Association's obligations.
    - (b) Any stock-in-trade of the Association.

FINANCIAL YEAR.

- 6. The financial year of the Association shall be reckoned from the .....  
.....to the.....

MEMBERSHIP.

*Entrance.*

- 7. *Bona fide* farmers of European descent may become members by application to the board of directors.
- 8. The board of directors has the right to accept or reject applicants for membership on the basis of these regulations.
- 9. Every member must at time of entrance sign his name in the members' book, and by his signature bind himself to the existing regulations, and to any additional regulations or alterations to regulations which may be lawfully made from time to time without any notice whatever from the Association being required.
- 10. The entrance fee for members will be fixed at the ordinary general meeting to be held in..... This entrance fee will be added to the reserve fund.
- 11. The widow of a deceased member may, subject to the approval of the directors, become a member in place of the deceased, and take over his rights and obligations, or the heirs be entitled to receive.....per cent. of the deceased's interest in the Association, the balance to be added to the reserve fund.

RESIGNATION.

- 12. A member may resign at the end of a financial year, provided he has given the secretary three months' prior notice in writing. The acknowledgment of such notice of resignation must be made in writing by the secretary with as little delay as possible.
- 13. A member can be expelled from the Association by a majority of two-thirds of the members present and voting at a special general meeting called for the purpose.
- 14. Resigned or expelled members have no claim on the reserve fund or other property of the Association.

DIRECTORS.

- 15. The board of directors shall consist of.....members to be elected for a period of..... At each annual general meeting .....directors, whose names shall be determined by ballot, shall retire. Retiring directors may be re-elected. Any vacancies shall be filled by the remaining directors until a general meeting can be called for the purpose.

\* Added by Govt. Notice No. 907 of 1909 (*Gazette*, 6/8/09).

16. The directors shall act in the name of the Society and they shall exercise, within the limits of these regulations, the same power as if they had been determined at a general meeting. The directors shall report and account for all their transactions at each general meeting and special general meeting when called upon so to do.

17. The directors shall meet as often as is necessary at least once a month, and their positions shall be honorary, but travelling and out-of-pocket expenses shall be refunded when travelling on duty.

18. The directors may engage a sufficient staff to carry on the work of the Association, and by contracts fix their salaries and determine the work to be carried out by the employees. They also have the right of suspension and dismissal.

19. The directors shall see that proper books are kept up to date and also look after the property of the Association.

20. The directors shall open a banking account, into which all moneys received shall be deposited as soon as feasible after receipt. All cheques must be signed by the chairman, or in his absence by....., and countersigned by the secretary.

#### GENERAL MEETINGS.

21. An annual general meeting of members shall be held within six weeks after the close of the Society's financial year, to transact the business mentioned in sections *sixteen* and *twenty-two* of the Act.

22. All questions submitted to a meeting shall be decided by a majority of votes except where otherwise provided by these regulations.

23. In addition to the business prescribed by law the agenda of the annual meeting shall include

- (a) a general report by the directors ;
- (b) the discussion of complaints that may arise from members ;
- (c) the discussion of any proposal that may be made ;
- (d) the payment of members' credit balances.

24. No alteration of the present regulations shall be made except at a meeting specially called for the purpose. If a quorum be not present at such meeting the provisions of section *seventeen* of the Act shall apply.

25. All meetings shall be convened by notice posted to members at their addresses fourteen days at least before the day appointed for the meeting.

#### SPECIAL GENERAL MEETINGS.

26. A special general meeting can be called at any time on a requisition being sent to the directors signed by one-fifth of the members of the Association.

27. The board of directors can also call a special general meeting at any time they think fit.

28. In each case the same notice should be given as in the case of an ordinary general meeting.

#### REGULATIONS REGARDING SUPPLY OF PRODUCTS.

29. Every member shall bind himself to sell the whole of his citrus fruit crop, viz., oranges, naartjes, etc., through the Association, with the exception of what he requires for his own consumption.

30. The members must every year before the.....of....., state in writing to the board of directors the approximate size and kind of their forthcoming crop. The directors will then, with as little delay as possible, inform the members where and within which time the products must be supplied and also in which quantities.

31. All produce will be received according to regulation 29, and graded, provided it is of good order and condition.

32. If a crop of a member be damaged or destroyed, through circumstances beyond his control so that he cannot fulfil his engagements towards the Association, he will be relieved of his obligations in respect of such crop if he instantly advises the directors to that effect. If, however, he omits to supply without such reason, he shall be responsible for any loss and damage the Association might sustain through his omission.

REGULATIONS REGARDING SUPPLY OF IMPLEMENTS, SEEDS, ARTIFICIAL MANURES, ETC.

33. Every member shall bind himself to buy all his requirements of the above articles through the Association, when the Association is in a position to supply.

34. The Association shall supply the above articles at cost price, plus a certain percentage to cover expenses.

35. Any surplus will be divided according to regulation....., but buying and selling accounts will be kept separately.

REGULATIONS OF PAYMENTS TO MEMBERS.

36. A member may receive an advance of.....per cent. at time of delivery, and later on, when the crop has been sold, the directors shall be at liberty to grant a further advance, not exceeding a total of.....per cent.

37. The credit balance of each member will be paid less.....per cent. on the whole amount to cover expenses, as soon as the whole crop is sold, on the basis of an average price.

38. After having deducted all expenses of the Association, and after having got a sufficient working capital, the amount of which is to be fixed by the general meeting, the surplus will be divided amongst the members according to the turnover of each member during the financial year.

GENERAL REGULATIONS.

39. Any person who has charge of any money, or other property, of the Association, shall give such security as the directors require.

40. All communications to the Association should be addressed to the secretary.

41. Only members can supply and receive goods through the Association.

42. All business transactions of the Association must be cash or against proper security.

43. The Association shall insure itself against damages which may be due to members for loss sustained by members' goods being left on the Association's premises, and also keep its own property insured against fire at their full value.

44. ....per cent. depreciation must be written off on all property of the Society every year.

45. Should any dispute arise with regard to the regulations of the Association which cannot be amicably adjusted, a special general meeting will be called and three members elected as arbitrators. The decision of the arbitrators is final and cannot be appealed against.

DISSOLUTION OF THE ASSOCIATION.

46. The Society may be dissolved by resolution of a special general meeting called for the purpose passed by two-thirds of the members of the Society, such members being personally present.

47. In case of dissolution, the debts of the Association will be paid off and other engagements fulfilled. The surplus, including the reserve fund, will then be distributed amongst the members according to the turnover of each member during the last three years. In case of any deficiency such must be borne equally by the members.

\* D.

MODEL REGULATIONS FOR CO-OPERATIVE WOOLGROWERS' SOCIETIES.

Name.

1. The name of the Society is ".....  
Co-operative Woolgrowers' Society".

Office.

2. The office of the Society will be situated at.....

\* Added by Govt. Notice No. 121 of 1909 (Gazette, 22/1/09).

*Objects.*

3. *The objects of the Society are*

- (1) *to improve the class of sheep kept in.....District, by assisting its members in obtaining good pedigree stock ;*
- (2) *to establish uniformity in the breed of sheep kept in the district, in order to get uniformity of wool grown by members ;*
- (3) *to establish uniform and simultaneous shearing of members' sheep ;*
- (4) *to dispose of, if possible, simultaneously, members' production of wool (through the Transvaal Co-operative Wool Export Association when erected) ;*
- (5) *to supply its members with the necessary implements, machinery, etc., for the better carrying on of sheep farming ;*
- (6) *to raise money on loan for any of the lawful objects of the Society ;*
- (7) *to generally promote the interests of the members.*

*Time of Establishment.*

4. *The Society shall be established for a period of five years, which period may be extended from time to time.*

*Working Capital.*

5. *The working capital of the Society shall consist of*

- (1) *entrance fees paid by members and credit balances due to members ;*
- (2) *loans on the following security :*
  - (a) *The members to jointly and severally guarantee the Society's obligations.*
  - (b) *Any stock-in-trade of the Society.*

*Financial Year.*

6. *The financial year of the Society shall be reckoned from the 1st July to the 30th June each year.*

*Membership.*

7. *Bona fide farmers of European descent, carrying on sheep farming and residing in the Transvaal, may become members by application to the board of directors.*

8. *The board of directors has the right to accept applicants for membership on the basis of these regulations or to reject such applicants without assigning any reasons for doing so.*

9. *Every member must at time of entrance sign his name in the members' book, and by his signature bind himself to the existing regulations, and to any additional regulations or alterations to regulations which may be lawfully made from time to time, without any notice whatever from the Society being required.*

10. *The entrance fee for members will be fixed at the ordinary general meeting to be held in..... This entrance fee will be added to the reserve fund.*

11. *The widow of a deceased member may, subject to the approval of the directors, become a member in place of the deceased and take over his rights and obligations, or the heirs shall be entitled to receive.....per cent. of the deceased's interest in the Society, the balance to be added to the reserve fund.*

*Resignation.*

12. *A member may resign at the end of a financial year, provided he has given the secretary three months' prior notice in writing. The acknowledgment of such notice of resignation must be made in writing by the secretary, with as little delay as possible.*

13. *A member can be expelled from the Society by a majority of two-thirds of the members present and voting at a special general meeting called for the purpose.*

14. *Resigned or expelled members have no claim on the reserve fund or other property of the Society.*

*Directors.*

15. *The board of directors shall consist of.....members to be elected for a period of..... At each annual general meeting directors shall retire in rotation 3 and 4, such rotation to be determined at the first general*



meeting by ballot. Retiring directors may be re-elected. Any vacancies shall be filled by the remaining directors until a general meeting can be called for the purpose.

16. The directors shall act in the name of the Society and they shall exercise, within the limits of these regulations, the same power as if they had been determined at a general meeting. The directors shall report and account for all their transactions at each general meeting and special general meeting when called upon so to do.

17. The directors shall meet as often as is necessary, at least once a month, and their positions shall be honorary, but travelling and out-of-pocket expenses shall be refunded when they are travelling on duty.

18. The directors may engage a sufficient staff to carry on the work of the Society, and by contracts fix their salaries and determine the work to be carried out by the employees. They also have the right of suspension and dismissal.

19. The directors shall see that proper books are used and kept up to date, and also look after the property of the Society.

20. The directors shall open a banking account, into which all money received shall be deposited as soon as feasible after receipt. All cheques must be signed by the chairman, or in his absence by the.....and countersigned by the secretary.

#### General Meetings.

21. An annual general meeting of members shall be held within six weeks after the close of the Society's financial year to transact the business mentioned in sections sixteen and twenty-two of the Act.

22. All questions submitted to a meeting shall be decided by a majority of votes, except where otherwise provided by these regulations.

23. In addition to the business prescribed by law the agenda of the annual meeting shall include

- (a) a general report by the directors ;
- (b) the discussion of complaints that may arise from members ;
- (c) the discussion of any proposal that may be made ;
- (d) the payment of members' credit balances.

24. No alteration of the present regulations shall be made except at a meeting specially called for the purpose. If a quorum be not present at such meeting the provisions of section seventeen of the Act shall apply.

25. All meetings shall be convened by notice posted to members at their addresses fourteen days at least before the day appointed for the meeting.

#### Special General Meetings.

26. A special general meeting can be called at any time on a requisition being sent to the directors, signed by one-fifth of the members of the Society.

27. The board of directors or any two of them can also call a special general meeting at any time they think fit.

28. In each case the same notice should be given as in the case of an ordinary general meeting.

#### Regulations regarding supply of members' production of Wool and Mohair.

29. Every member shall bind himself to sell the whole of his production of wool and mohair through the Society.

30. Such supplies must be strictly treated as prescribed in the Shearing Regulations.

#### Regulations regarding the supply of implements and stock.

31. Every member shall bind himself to buy all his requirements of implements for shearing, etc., and may also buy his stock through the Society when it is in a position to supply.

32. The Society shall supply the above articles at cost price, plus a certain percentage to cover expenses.

33. Any surplus will be divided according to regulation.....but buying and selling accounts will be kept separately.

#### Regulations of payment to members.

34. Members may receive an advance of 60 per cent. on their production of wool and mohair as soon as a value has been fixed by the directors.

35. The credit balance (which will be fixed from time to time) will be deducted to cover expenses of the Society.

36. *After having deducted all the expenses of the Society, and after having got a sufficient working capital, the amount of which is to be fixed by the general meeting, the surplus will be divided amongst the members according to the turnover of each member during the financial year.*

*General Regulations.*

37. *Any person who has charge of any money, or other property of the Society, shall give such security as the directors require.*

38. *All communications to the Society should be addressed to the Secretary.*

39. *Only members can supply and receive goods through the Society.*

40. *All business transactions of the Society shall be made through the Transvaal Co-operative Wool Export Association, as soon as this institution has been established, and on such conditions as this Association may from time to time prescribe.*

41. *The Society shall insure itself against damages which may be due to members for loss sustained by members' goods being left on the Society's premises, and also keep its own property insured against fire at their full value.*

42. *.....per cent. depreciation must be written off on all property of the Society every year.*

43. *Should any dispute arise with regard to the regulations of the Society which cannot be amicably adjusted, a special general meeting will be called, and three members elected as arbitrators. The decision of the arbitrators is final and cannot be appealed against.*

*Dissolution of the Society.*

44. *The Society may be dissolved by resolution of a special general meeting called for the purpose, passed by two-thirds of the members of the Society, such members being personally present.*

45. *In case of dissolution, the debts of the Association will be paid off and other engagements fulfilled. The surplus, including the reserve fund, will then be distributed amongst the members according to the turnover of each member during the last three years. In case of any deficiency such must be borne equally by the members.*

\* E.

*MODEL SHEARING REGULATIONS.*

1. *The shearing floor must be kept rigorously clean and free from every foreign matter such as straw, sand, stones, manure, etc.*

2. *The wool from different breeds of sheep must be kept separate, i.e. Merino, bastard, English, etc.*

3. *The shearing-board must be kept clean after each sheep is shorn.*

4. *The sheep must be absolutely dry at the time of shearing, and the wool must be kept dry afterwards.*

5. *No sheep should be shorn until the wool is at least of ten months' growth. (Lambs' wool excepted.)*

6. *The belly-wool must be shorn off first, detached from the fleece, and placed on one side.*

7. *The fleece must be taken off in one piece.*

8. *No shearer shall be allowed to stand on the fleece or break it in any way.*

9. *No shearer shall be allowed to cut the wool open. When opening up the wool on the neck of a sheep both blades of the shears or the comb of a shearing machine must be kept flat on the skin under the wool, and the fleece broken open by an outward movement of the arm and implement.*

10. *The wool stained by manure, urine, paint, tar, or spoilt by scab must be immediately removed and placed with the locks and sweepings.*

12. *The fleece must be carefully skirted and rolled. String must not be used to tie the fleece.*

13. *The wool must be classed into six sorts, comprising :*

- First Fleeces.*
- Second Fleeces.*
- First Pieces.*
- Second Pieces.*
- Bellies.*
- Locks.*

\* Added by Govt. Notice No. 121 of 1909 (*Gazette*, 22/1/09).

14. *The wool must be pressed, the bales to weigh not more than 350 lb. and not less than 180 lb.*
15. *The packs used must be new and not less than 8 lb. in weight.*
16. *Bales must be numbered consecutively : 1, 2, 3, 4, 5, etc.*
17. *On each end of the bale must be placed the owner's private mark and number of the bale.*
18. *On the long side of the bale must be marked :*

*TRANSVAAL.*

*District* .....  
*Owner's Private Mark* .....  
*Class* .....  
*Sex* .....  
*Number* .....

19. *The wool of lambs under eight months of age must be branded "Lambs", and may be divided into two classes, branded first and second "Lambs", respectively.*

20. *Bales containing wool of sheep twelve months old, and shorn for the first time, should have the word "Hoggets" branded after the sex mark, i.e. Ewes "Hoggets".*

Act No. 18 of 1908.]

[Promulgated 28th August, 1908.

## AN ACT

TO PROVIDE FOR THE APPLICATION OF SURPLUS PUBLIC REVENUES TO THE REDEMPTION OF DEBENTURES OF THE FRANCO-BELGIAN NORTHERN RAILWAY COMPANY OF THE SOUTH AFRICAN REPUBLIC (OTHERWISE KNOWN AS THE SELATI RAILWAY COMPANY) AND FOR OTHER PURPOSES RELATING TO THE PUBLIC REVENUES OF THE COLONY.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. In this Act the terms "financial year", "public revenues", and "Governor" shall have the same meanings respectively as are assigned to them in and for the purposes of the Audit and Exchequer Act, 1907.

Interpretation of terms.

2. In addition to the powers conferred by the Selati Railway Debentures Redemption Ordinance 1905 of purchasing and redeeming the debentures therein mentioned out of moneys accruing to the Crown under the Precious Stones Ordinance 1903, the Governor shall be and is hereby authorized to apply from time to time, towards the purchase or redemption of any such debentures, any public revenues, other than public revenues appropriated by Parliament and required for the services of any financial year; provided that the purchase or redemption price of such debentures shall not exceed ninety-six pounds for each debenture of one hundred pounds.

Application of surplus public revenues to purchase or redemption of Selati Railway Debentures.

3. The tax payable under article *five* of Law No. 4 of 1899 in respect of erven or portions thereof situate within the Municipality of Pretoria shall be abolished as from the first day of January 1909.

Abolition of erf tax in Pretoria.

4. Law No. 11 of 1896 shall be and is hereby repealed and after the coming into operation of this Act land taxes payable under the laws of this Colony shall be a debt due to the Crown and recoverable by action in any competent court. The said taxes shall be due and payable on or before the first day of July in each year.

Repeal of Law No. 11 of 1896.

5. This Act may be cited for all purposes as the Finance Act 1908 and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Title and date of operation of Act.

\* This date was the 28th Aug., 1908.

Act No. 19 of 1908.]

[Promulgated 28th August, 1908.

## \* AN ACT

TO PROVIDE FOR THE ORGANIZATION OF AND DISCIPLINE IN THE PUBLIC SERVICE OF THIS COLONY AND TO REGULATE THE RETIRING PENSIONS OF OFFICERS THEREIN (OTHER THAN OFFICERS DESCRIBED IN THE PENSIONS ORDINANCE 1906) AND FOR OTHER PURPOSES.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

## PRELIMINARY.

Interpreta-  
tion of terms

1. In this Act unless inconsistent with the context;
  - “appointment” shall mean an appointment to an office or post in the Public Service;
  - “commencement of this Act” shall mean the date on which this Act came into operation;
  - “general revenue” shall mean the consolidated revenue fund described in the Transvaal Constitution Letters Patent 1906, or, if the context so requires, the public revenue of the Colonial Government in existence prior to the taking effect of such Letters Patent;
  - “Governor” shall mean the officer for the time being administering the Government of this Colony acting by and with the advice of the Executive Council thereof;
  - “incremental pay” shall mean salary rising by fixed amounts in accordance with grades and scales prescribed by regulation;
  - “Minister” or “Minister concerned” shall mean, in relation to any officer, or in relation to a person claiming a pension under this Act, the Minister responsible for the department in which the officer is employed, or (as the case may be) in which such person holds or has held an appointment;
  - “officer” shall mean a person employed in the Public Service other than—
    - (a) a Minister;
    - (b) the Agent-General;
    - (c) a Judge of the Supreme Court or a clerk to such Judge;

\* See Act No. 19 of 1909 and Act No. 9 of 1910.

(d) a private secretary or aide-de-camp to His Excellency the Governor;

(e) an officer of Parliament.

“pension” shall include an annuity or a gratuity and shall mean a pension payable under Chapters III, IV, or VII of this Act;

“Public Service” shall mean the system of employment of persons of European descent by the Government of this Colony in the discharge of public duties in a department or office of such Government;

“regulation” shall mean a regulation made under Chapter VIII of this Act;

“salary” shall, except in Chapter IV, include—

(i) an officer's annual pay, and any special (but not local) allowance attached to a particular office if such allowance when authorised is specially declared to be entitled to count for pension purposes; and

(ii) any personal allowance granted to an officer in consideration of his pay being reduced otherwise than as a penalty; and

(iii) ration allowances or the value of free rations; and

(iv) the estimated value of free quarters;

but shall not include

(a) any local allowance for the cost of living or a marriage allowance; or

(b) any extra allowance which an officer may draw while acting in an office, whether permanently or temporarily vacant; or

(c) any transport or subsistence allowance; or

(d) fees, honoraria, or bonuses of any kind; or

(e) overtime payments; or

(f) any other allowance not herein specified; and

“average salary” shall, except in Chapter IV, mean the average of the salary of an officer during the three years immediately preceding the termination of his employment in the Public Service or during the whole of his period of employment if that be less than three years;

“schedule grade” shall mean any grade of officers described in the Second Schedule to this Act;

“Treasurer” shall mean the Colonial Treasurer or any person lawfully acting in such capacity.

2. This Act is divided into eight Chapters relating to the following subject matters:—

Chapter I.—The organization of the Public Service;

Chapter II.—Discipline in the Public Service;

Chapter III.—Pension Fund and pensions on termination of employment in the Administrative and Clerical Service;

Chapter IV.—Special pension provisions relating to Police, Prisons, and Asylums;

Division of Act.

Chapter V—General Service Provident Fund;  
 Chapter VI—Teachers Provident Fund;  
 Chapter VII—Pensions to officials of the late South  
 African Republic;  
 Chapter VIII—General and Miscellaneous.

## CHAPTER I.

### ORGANIZATION OF THE PUBLIC SERVICE.

Division of  
the Public  
Service.

3. (1) The Public Service shall consist of—

- (a) the Administrative and Clerical Service;
- (b) the General Service.

(2) The officers described in the First Schedule to this Act shall belong to the Administrative and Clerical Service, provided that the Governor may, from time to time by proclamation in the *Gazette*, add to, alter, or amend such Schedule.\*

(3) Every officer who does not belong to the Administrative and Clerical Service shall be deemed to belong to the General Service.

(4) Every officer in the Public Service may, whenever the public interests so require, be transferred from a department or office in which he is serving or from an appointment which he holds to any other department, office, or appointment in the Public Service, provided that except for proved inability to perform his duties or as a penalty imposed under section *fourteen* or *fifteen*, no transfer involving a reduction in salary shall be made without the consent of the officer concerned.

Appointment  
of Public  
Service  
Board.

4. The Governor shall from time to time and for such periods as he may deem fit appoint a Board, consisting of three members, to be styled "the Public Service Board" which shall exercise such functions as may be assigned to it by this Act or any other law, or by regulation, or by the Governor.

Duties of  
Public Service  
Board.

5. The Public Service Board shall—

- (a) keep in accordance with regulation a register of applicants for appointments to offices or posts in the scheduled grades in the Administrative and Clerical Service, and of applicants for such other appointments therein as the Governor may from time to time prescribe;
- (b) as often as it becomes necessary to make any new appointment to any such office or post, submit to the Minister concerned the names and qualifications of persons who appear to be suitable for appointment together with its recommendation thereon;
- (c) keep in accordance with regulation a record of officers in the Administrative and Clerical Service and, whenever and so far as the Governor may prescribe, a record of officers in the General Service;

\* Altered, etc., by Procs. (Admn.) No. 88 of 1909 and No. 41 of 1910.

(d) advise the Minister concerned as to the promotion, transfer, and removal from the Public Service of officers in any scheduled grade and as to the control or any proposed reorganization of departments and offices;

(e) bring to the notice of the Minister concerned the name of every officer in respect of whom the Board has a record, and who is approaching the prescribed age for retirement;

(f) enquire into such cases of breach of discipline in the Public Service as may be referred to it by the Minister concerned;

(g) advise as to the preparation and interpretation of all regulations framed under this Act and as to the grant to officers under special circumstances of privileges not authorized by regulation;

(h) prepare annually for publication a list of the persons employed in the Public Service, and cause the same to be published in manner or subject to such instructions as the Governor may give in relation thereto.

6. (1) The Governor may from time to time—

(a) determine the number of applicants whose names may be entered in the register kept by the Public Service Board under paragraph (a) of the last preceding section;

(b) require that all such applicants shall have passed the lower certificate examination held by the Education Department or an examination declared equivalent thereto;

(c) take all steps necessary for ensuring that persons be not so entered as applicants, unless they are of good character and free from any mental and physical defect which would interfere with the discharge of their duties if they held an appointment in the Public Service.

(2) Whenever there is a vacancy in any office or post in any scheduled grade and if the same cannot be filled by the transfer or promotion of an officer, the vacancy may be filled by the appointment on probation of any person—

(a) under the age of forty-five who, having been employed for not less than twelve months continuously in the civil service of the South African Republic, or in the Public Service of this Colony since the first day of September 1900, retired from such service for other reasons than voluntary resignation or his own default, subject to his fulfilment of the conditions described in paragraph (c) of sub-section (1);

(b) of the age of seventeen but under the age of twenty-five who has been domiciled in this Colony for at least two years, is a British subject, and whose name has been registered as aforesaid by the Public Service Board, subject to his fulfilment of the conditions described in paragraphs (b) and (c) of sub-section (1).

7. (1) An appointment on probation to an office or post in any scheduled grade may be terminated by the Minister on

Qualifications  
for entrance  
into the Pub-  
lic Service.

Appointments  
to clerkships  
on probation.



one month's notice, if he is of opinion that the holder is unsuited therefor, or that he lacks diligence, or without notice, if the Minister is of opinion that the holder's conduct is unsatisfactory and in every such case the Minister shall notify his action to the Public Service Board.

(2) No such appointment on probation shall be confirmed until—

(a) the holder has served therein for at least twelve months; and

(b) the head of his office has certified that the holder has been diligent and his conduct uniformly satisfactory for the period of twelve months immediately preceding, and that in all respects he is suitable for employment in the Public Service; and

(c) the Public Service Board is satisfied, by production to it of an examination certificate or otherwise, that the holder possesses a knowledge of the English and Dutch languages adequate for carrying out the duties of the appointment.

Appointments and removals to be made by the Governor except probationary appointments.

8. (1) Every appointment made (otherwise than on probation) to an office in the Administrative and Clerical Service and every removal from such office of a person so appointed shall be by the Governor.

(2) An officer in the Administrative and Clerical Service though he has been confirmed in his appointment may be removed from his office—

(a) if convicted of a criminal offence and sentenced to imprisonment therefor without the option of a fine, unless he shall have obtained a free pardon for such offence; or

(b) for misconduct or any such breach of discipline as is described in Chapter II; or

subject to the provisions of Chapter III—

(c) owing to continued ill-health; or

(d) to a reduction in or a reorganization of his department;

*\* provided that if any female officer, who is not a contributor to the Pension Fund, is removed from her office for either of the reasons stated in paragraphs (c) and (d) hereof, the provisions of the said Chapter III shall not apply in her case.*

Special qualifications in respect of magistrates and public prosecutors.

9. After the commencement of this Act no person except a person who at the commencement of this Act occupies the position of Resident Magistrate or Assistant Resident Magistrate shall be appointed (otherwise than in an acting capacity) to the office of resident magistrate, assistant resident magistrate, or public prosecutor, unless—

(a) he is an advocate or attorney of the Supreme Court or has passed the Civil Service Lower Law Examination or an examination declared by the Governor equivalent thereto; and

\* Words in italics added by Act No. 19 of 1909, sec. 1.

(b) he possesses such knowledge of the English and Dutch languages as the Minister deems requisite.

10. (1) The conditions of appointment to and the grounds of removal from an office in the General Service and the grading and promotion of officers therein shall be as prescribed by regulation.

Appointments to and removal from offices in the General Service.

(2) Regulations relating to such matters may be made so as to suit the particular requirements of departments and the classes of employment in such Service.

(3) Every appointment to or removal from the General Service shall be subject to confirmation by the Minister concerned.

11. (1) Subject to the exceptions hereinafter contained it shall not be lawful to employ any person temporarily for more than one year in any permanent department or office in the Administrative and Clerical Service, and no person may be temporarily employed therein unless he fulfils the conditions prescribed in section *six*, nor unless his name has been submitted by the Public Service Board for the Minister's consideration.

Temporary employment in Administrative and Clerical Service.

(2) Nothing contained in sub-section (1) shall be deemed to apply to the employment either temporarily for more than a year or under contract for limited periods of persons whose services may be required for the purpose of some public work or undertaking in connection with which a staff is not ordinarily maintained in the Public Service on a permanent basis, or in connection with which it is necessary to increase temporarily any permanent department of the Public Service.

12. The conditions governing temporary employment in the General Service shall be as prescribed by regulation.

Temporary employment in the General Service.

## CHAPTER II.

### DISCIPLINE IN THE PUBLIC SERVICE.

13. Any officer who contravenes any provision of this Act or a regulation or who—

Offences by officers contrary to discipline.

(a) disobeys, disregards or makes wilful default in carrying out a lawful order given to him by a person having authority to give the same; or

(b) is negligent or careless in the discharge of his duties; or

(c) becomes inefficient or incompetent in the discharge of his duties from causes within his own control; or

(d) conducts himself in disgraceful, improper, or unbecoming manner either in the discharge of his duties or in public; or

(e) uses to excess any intoxicant or drug; or

(f) becomes insolvent or assigns his estate for the benefit of his creditors, or has a decree of civil imprisonment made against him by any court,

Penalties for offences committed by officers in Administrative and Clerical Service.

\**(g) commits any crime,*  
shall be guilty of an offence, and may be dealt with as in this Chapter is provided.

†14. (1) When an officer in the Administrative or Clerical Service is charged with an offence he may—

(a) if it is of a minor nature, and, after an opportunity has been afforded to him of being heard and after any admission, denial, or explanation has been properly considered, be cautioned or reprimanded ‡ *or deprived of leave privileges or any increase of pay may be suspended* by the head of his office;

(b) if it is not of a minor nature, be suspended temporarily from duty by the Minister, or, in cases of emergency by the head of his office, who shall immediately report all the facts to the Minister.

(2) Any order of suspension under this section shall be reduced forthwith to writing, and a copy thereof signed by the person making the order together with a copy of the charge on which the order is made, shall be transmitted or delivered to the officer suspended, who shall be required to state in writing whether he admits or denies the charge and any explanation he may desire to make.

(3) The Minister, on consideration of the statement, may—

(a) discharge the order of suspension;

(b) refer the matter to the Public Service Board for investigation and recommendation;

(c) impose the following penalties, namely a fine recoverable by deduction from salary, stoppage of leave, stoppage of increments of pay, or reduction of salary or suspension of increments of pay for a period not exceeding twelve months;

(d) submit the case to the Governor, who may remove the suspended officer from the Public Service, or call upon him to retire therefrom, or degrade him permanently, or suspend him from duty, or degrade him for a period not exceeding one year.

Penalties for offences by officers in the General Service.

15. When an officer in the General Service is charged with an offence, and after an opportunity has been afforded to him of being heard and after any admission, denial, or explanation has been properly considered, the Minister (or the head of his office if delegated thereto) may remove him from the Public Service or impose any lesser penalty described in the preceding section.

### § CHAPTER III.

#### PENSION FUND AND PENSIONS ON TERMINATION OF EMPLOYMENT IN ADMINISTRATIVE AND CLERICAL SERVICE.

16. Nothing in this Chapter contained shall apply to any person who is a pensionable officer as defined in section one of the Pensions Ordinance 1906 or affect any provision of or

Provisions of this Chapter not to affect Ordinance No. 30 of 1906.

\* Para. (g) added by Act No. 19 of 1909, sec. 2.

† See, however, Act No. 19 of 1909, sec. 3.

‡ Words in italics inserted by Act No. 19 of 1909, sec. 4.

§ See Act No. 9 of 1910, sec. 1.

abridge any power conferred by that Ordinance, which shall for all the purposes thereof remain in full force and effect.

\* † 17. (1) There shall be established as from a date to be fixed by proclamation of the Governor in the *Gazette* a fund to be known as the Administrative and Clerical Service Pension Fund which shall consist of—

Pension Fund.

(a) contributions made under section *eighteen* by officers in the Administrative and Clerical Service,

(b) sums and interest paid out of general revenue under this section and sections *twenty* and *twenty-one*;

(c) any other sums which by this or any other section of this Act are to be credited to the Pension Fund.

(2) All amounts contributed or paid to the Pension Fund shall be lodged in the Treasury to the credit of a separate deposit account to be called the "Pension Fund Deposit Account".

(3) The Treasurer shall from time to time invest any portion of the balance of the Pension Fund in Transvaal Government stock or stock guaranteed by the Transvaal Government, in stock guaranteed by the Imperial Government or by any South African Government, in Treasury Bills of the Government of this Colony, on first mortgage of immovable property in this Colony, in the stock of any local authority in this Colony which is authorized by law to issue stock, or on fixed deposit with a bank as defined by Law No. 2 of 1893, or any amendment thereof.

‡ (4) *The income derived by the Treasurer from the investment of such balances as are described in sub-section (3) of this section shall be paid to the credit of the Pension Fund; provided that, whenever an investment of such balances produces interest at a less rate than four per cent., the difference between the rate of interest produced and four per cent. shall be made good out of general revenue.*

§ 18. (1) From the date fixed by the proclamation mentioned in section *seventeen* and subject to the provisions of section *twenty-two* every officer in the Administrative and Clerical Service on such date (not being an officer on probation) shall make contribution to the Pension Fund at the rate of four pounds per cent. of his salary; provided that, if for any reason the salary of an officer who is a contributor to the Fund is at any time reduced except as a penalty under Chapter II, such officer shall be entitled on such reduction to have refunded to him without interest so much of the contributions at the rate aforesaid as were paid by him on that amount of his salary which was in excess of his reduced salary.

Contributions by officers to Pension Fund.

(2) Every such officer shall be called upon by the head of his department to intimate in writing within three months of such date what period of his past continuous employment, if any, between the first day of September, 1900, and such

† The Administrative and Clerical Service Pension Fund was established on 1st January, 1909, by Proc. (Admn.) No. 123 of 1908.

‡ Sub-sec. (4) substituted by Act No. 19 of 1909, sec. 5.

§ See Act No. 19 of 1908, sec. 7.

date he desires to have reckoned for purposes of pension. Upon receipt of the officer's intimation the Treasurer shall decide whether or not such period is entitled to count as continuous employment in the Administrative and Clerical Service for pension purposes; and if it be decided that the officer is so entitled, he shall become liable for the payment of contributions at the rate of four per cent. of his salary during each month of such period but no contribution shall be made in respect of any portion of his salary which may have been in excess of the rate of salary drawn by him at the date fixed as aforesaid.

(3) In the case of an officer appointed after the date so fixed such contribution shall commence from the appointment.

(4) Contributions due from an officer in respect of a period of authorized leave of absence shall be calculated on his salary, notwithstanding that any portion of such leave has been granted on half-pay.

(5) Save as is otherwise specially provided in this Act no contribution made by an officer to the Pension Fund shall be repaid to him.

Contributions  
of officers to  
Pension Fund  
to be deducted  
from salaries.

19. (1) Every contribution of an officer to the Pension Fund shall be made by monthly deduction from his salary; and, in the case of contributions payable in respect of any period between the first day of September, 1900, and the date fixed by the said proclamation, the first complete instalment shall be deemed to have commenced as from the day next before such date, and each further complete instalment to have been paid on the last day of each month immediately preceding the last such instalment, and to continue in regular order until the last instalment has been paid; provided if any such officer retires from the Public Service on pension before the total instalments have been paid, the amount of any instalments still due shall be deducted from his pension, which shall be calculated on the whole period of his continuous employment.

(2) In the payment of the arrear instalments of four per cent. the deductions to be made from an officer's salary shall not be greater than an amount which added to the amount of his current contributions would equal a total of six per cent. of his salary; but nothing herein contained shall be deemed to limit the right of any officer who so desires from making payment at a higher rate than six per cent. of his salary until the arrear contributions have been paid off.

(3) Nothing in this section contained shall apply to a commissioned officer of the Transvaal Police in respect of the period of his employment (if any) in the Transvaal Town Police Force, in the South African Constabulary, or in the Railway Police. So much of any pension as is due to any such commissioned officer in respect of the period of such employment shall be paid out of general revenue.

Contributions  
out of general  
revenue to  
Pension Fund.

\*20. *From and after the date fixed as aforesaid there shall be paid out of general revenue into the Pension Fund:—*

\* This section substituted by Act No. 19 of 1909, sec. 6.

- (a) a sum monthly equal to the aggregate of the current contributions made by officers under this Chapter;
- (b) a sum equal to the total amount of the contributions mentioned in sub-section (2) of section eighteen;
- (c) compound interest at the rate of eight per cent. per annum, calculated on the contributions mentioned in sub-section (2) of section eighteen to the date of the coming into operation of this Act;
- (d) interest at the rate of four per cent. per annum on the daily average uninvested balance of the Pension Fund;
- (e) interest at the rate of four per cent. per annum calculated on the average monthly balance of the contributions mentioned in sub-section (2) of section eighteen outstanding on and after the day on which the Act came into operation.

21. (1) The Governor shall cause a quinquennial valuation of the Pension Fund to be made by an approved actuary and notwithstanding anything in section *eighteen* contained, the Governor may, upon the actuary's report, prescribe that contributions at a higher or lower rate than four per cent. be made on salaries thereafter drawn by officers.

Quinquennial valuation.

(2) The contributions from general revenue shall be at the same rate as the contributions prescribed for the time being for officers; provided that, if an actuarial deficiency is disclosed after the first quinquennial valuation, such deficiency shall be made good out of general revenue.

22. (1) No pension shall be paid under this Chapter—

- (a) to a person under the age of seventeen or in respect of employment under that age; or
- (b) to a person appointed to the Public Service after the commencement of this Act whose age on appointment is forty-five years or over; or
- (c) to a person whose salary is paid at a daily or weekly rate; or
- (d) to a person remunerated solely by fees or allowances; or
- (e) to a person not ordinarily employed in the Public Service who is engaged for the completion or performance of specific Government work; or
- (f) to a person employed temporarily or for a fixed number of months or years, unless under the terms of his contract of employment, he is permitted to contribute to the Pension Fund and to count his period of employment for pension purposes; or
- (g) to a person whose whole time is not at the disposal of the Government for the Public Service; or
- (h) to a person employed in the General Service;

Persons in respect of whose pensions the fund shall not be charged.

and no such person shall be liable to contribute to the Pension Fund; provided that nothing in this or any other section contained shall prevent an officer who has been employed on probation or temporarily in the Administrative and Clerical Service from contributing between the ages of seventeen and

forty-five to the Pension Fund or deprive any person who has so contributed of any benefits accruing under this Act on the termination of his employment; provided further that such person shall within one month after the expiry of his probationary or temporary period of employment signify whether he desires to contribute to the Fund and the arrear contributions shall be paid in such instalments and in such manner as the Treasurer shall prescribe.

(2) Any pension granted under sections *twenty-seven*, *twenty-eight*, or *twenty-nine* shall be paid out of general revenue, and the Treasurer shall pay over from the Pension Fund to general revenue any contributions made to the Fund by and in respect of the officer to or concerning whom such pension has been granted, together with any interest that has accrued upon such contribution.

(3) Save as is in this section, in sub-section (3) of section *nineteen*, in sub-section (3) of section *twenty-four* and in section *thirty-two* provided, all pensions payable under this Chapter shall be charged upon the Pension Fund.

Prescribed  
age of  
retirement.

23. (1) The prescribed age of retirement from the Administrative and Clerical Service shall be fifty-five, and any officer therein may, subject to compliance with the regulations as to notice of retirement, retire at such age, save that, in the case of officers described in and fulfilling the conditions of section *twenty-four*, the prescribed age for retirement shall be fifty.

(2) The Minister concerned may require an officer in the Administrative and Clerical Service to retire at the prescribed age and shall require his retirement at the age of sixty unless it is desirable in the public interest to retain him in such Service over such last-mentioned age; in such case the Governor may from time to time retain such officer for further periods (not exceeding one year at a time) up to the age of sixty-five, after which age an officer shall not remain in such service except in accordance with resolutions of both Houses of Parliament; provided always that a return of officers retained after the age of sixty shall be laid on the tables of both Houses of Parliament during the month of July if Parliament be then in session, or, if it be not then in session, within fourteen days after its next ensuing session; provided further that any officer appointed to the Administrative and Clerical Service before the commencement of this Act who was over the age of forty-five when so appointed shall be entitled, so long as in the opinion of the Minister he is fit and capable of properly discharging the duties of his office, to continue in the Public Service until he has completed ten years' service.

Special  
provisions  
applicable to  
officers  
employed in  
lunatic  
asylums, leper  
asylums, etc.

24. (1) If an officer in the Administrative and Clerical Service has been employed continuously as medical superintendent, medical officer, or lay superintendent for a period of ten years or more in a lunatic or leper asylum, or as such officer or superintendent in any Government institution used for the treatment of infectious or contagious diseases,

provided his duties bring him into regular daily contact with patients suffering from such diseases, there may in the discretion of the Governor be added to such officer's period of employment for the purpose of calculating his pension upon his retirement, a period not exceeding five years in respect of the first ten years of continuous employment in such asylum or institution, and a proportionate amount for any further period of such employment.

(2) Any such officer may retire, or, in the discretion of the Governor, may be required to retire when he has attained the age of fifty years with a pension calculated as in section *twenty-six* is provided, but with the privilege of the added service allowed under sub-section (1) hereof.

(3) So much of the pension as is attributable to the added service shall be paid out of general revenue.

25. (1) The period of employment in respect of which a pension may be reckoned shall be continuous.

(2) A continuous period of employment shall include the time spent by an officer—

(a) on actual duty;

(b) on authorized leave of absence, otherwise than without pay;

(c) under suspension followed by reinstatement in the same or another office;

(d) in transit from one appointment to another in the Administrative and Clerical Service, or to or from such service when transferred under competent authority to, or from the service of another Government.

(3) A continuous period of employment shall not be regarded as interrupted by authorized leave of absence without pay, or by temporary retirement under section *twenty-seven* followed by resumption of duty, but the time spent on such leave or in such retirement shall not be reckoned for purposes of pension.

(4) In calculating the period of employment of a commissioned officer of the Transvaal Police, the period (if any) during which he was previously employed in the Transvaal Town Police, the Transvaal Prisons Department, the South African Constabulary, or the Railway Police shall be reckoned, provided that the employment was continuous and that he was regularly transferred to the Transvaal Police without interruption of employment, and has not already received any pension or compensation allowance in respect of the previous employment.

26. Subject to the provisions of this Act, there shall on the termination of his employment at or after the prescribed age be paid to every officer of the Administrative and Clerical Service who has contributed to the Pension Fund in accordance with this Chapter, a pension on the following scales (according to the circumstances herein severally described) that is to say—

Period over which a pension may be calculated.

Scale of pensions payable under this Chapter.



(a) to an officer whose period of employment has been less than one year, a gratuity equal to any contributions made by him to the Pension Fund;

(b) to an officer whose period of employment has been not less than one year but less than ten years, a gratuity not exceeding an amount determined by allowing one month's salary in respect of and calculated on the average of his salary for each year of such employment; provided that notwithstanding anything contained in the proviso to sub-section (1) of section *nineteen* in the case of any officer whose services are terminated by reason of the abolition of his own or another office, or by reason of a reduction of or a reorganization in his department, and who has not completed the payment of contributions to the Pension Fund due in respect of any period of employment between the first day of September 1900 and the date fixed for the establishment of the said Fund, no contributions still due shall be payable, but so much of the gratuity as is in respect of employment for which contributions have not been paid shall be paid out of general revenue;

(c) to an officer whose period of employment has been ten years or over, an annuity for each year of such employment at the rate of one-sixtieth of and calculated upon his average salary.

For the purposes of this section the period of employment shall be calculated by the year and month, and fractions of a month shall be disregarded.

Pensions payable to medically unfit officers.

27. (1) If an officer in the Administrative and Clerical Service who has not yet reached the prescribed age of retirement is found on medical grounds to be unfit to discharge efficiently the duties of his office, the Governor may, if such officer's period of employment is less than ten years, direct that he shall temporarily retire from the Public Service with a gratuity calculated in accordance with paragraph (a) or (b) of the last preceding section (as either such paragraph is applicable), or if such officer's period of employment is ten years or more, direct that he shall temporarily retire from the Public Service with an annuity at the rate mentioned in paragraph (c) of such section.

(2) If any such officer to whom an annuity under sub-section (1) has been granted shall, within two years of his temporary retirement, be medically certified as fit for duty and be still under the prescribed age, he may be required to resume duty in his former or any other office, provided that

(a) the salary offered to such officer shall be not less than the salary drawn by him immediately prior to his temporary retirement;

(b) the office at which he is required to resume duty is not of a lower grade than that from which he temporarily retired;

(c) any pension which he was drawing at the time of resuming duty shall determine;

(d) on his final retirement he shall be entitled for the purposes of pension to add together the periods of employment prior to and subsequent to his temporary retirement, but any such period, in respect of which a gratuity has been paid and not refunded, shall not be reckoned for purposes of such pension.

(3) If on the expiry of two years from the date of his temporary retirement such officer has not been required to resume duty or is still medically unfit for duty he shall be deemed to have finally retired from the Public Service.

(4) If an officer in the Administrative and Clerical Service who has not reached the prescribed age for retirement ceases to be required therein by reason of the abolition of his own or another office or by reason of a reduction of or a reorganization in his department the Governor may direct that he shall retire from the Public Service with a pension calculated according to his period of employment at the rates prescribed in section *twenty-six*.

*\*(5) Any officer retired under this section upon a gratuity, who may not have completed the payment of contributions to the Pension Fund due in respect of any period of employment between the first day of September 1900 and the date of the coming into operation of this Act shall not be held liable for the completion of such payment.*

28. If an officer in the Administrative and Clerical Service would at his retirement therefrom at the prescribed age have been entitled to an annuity, but is compelled to retire under such age by reason of severe bodily injury or permanent ill-health occasioned without his own default in the discharge of and specifically attributable to his official duties, the Governor may grant him a pension at the following rate, that is to say:—

Pensions to officers retiring in consequence of injury or permanent ill-health occasioned in course of duties.

(a) If his capacity to contribute to the support of himself and his dependents be materially impaired, an annuity, for each year of employment, at the rate of one-sixtieth of and calculated upon his average salary;

(b) if his capacity to contribute to the support of himself and his dependents be totally destroyed, an annuity of not less than one-half of his average salary.

29. If an officer in the Administrative and Clerical Service would at his retirement therefrom at the prescribed age have been entitled to a pension, but dies before retirement at such age, or has already retired from the service and died within one year after retirement, the Governor shall grant to or for the benefit of the widow or any minor child of such officer or, failing a widow or minor child, to any relative actually dependent on such officer for maintenance, either—

Gratuity to widows of officers dying while in the service.

(a) a gratuity equal to one month's salary in respect of each year of employment but not exceeding twelve months' salary; or

\* Sub-sec. (5) added by Act No. 19 of 1909, sec. 8.

(b) a refund of the total amount of the contributions without interest made to the Fund by such officer under section *eighteen* of this Act,

whichever amount be the greater, and, if there be more than one claimant to the benefit of such gratuity, the distribution thereof among the claimants shall be made as the Governor may determine.

Persons to whom pensions may not be paid.

30. No pension shall be paid to an officer in the Administrative and Clerical Service, who—

(a) is removed therefrom under the provisions of paragraphs (a) or (b) of sub-section (2) of section *eight*; or

(b) voluntarily retires therefrom before the prescribed age, unless reported by a medical board in accordance with regulation as unfit for duty by reason of infirmity of body or mind, which is permanent or likely to be permanent and is not due to excess or misconduct on his part, provided that if the retirement is due to inevitable necessity involving no element of blame to such officer the Governor may grant him a gratuity not exceeding the amount of his contributions, without interest, to the Pension Fund.

Gratuity to female officers on marriage.

31. Whenever a female officer—

(a) has been in the Administrative and Clerical Service for a period of not less than five years and has contributed to the Pension Fund in accordance with this Chapter for such time; and

(b) leaves such service owing to her marriage, the Governor may grant to her out of the Pension Fund a gratuity equal to one month's salary for each year of her employment, but not exceeding one hundred pounds.

Rights of person holding office in Colony prior to commencement of Act on transfer to pensionable office under another Government.

32. Any person who prior to the commencement of this Act held an office which, if held under this Act, would have been deemed an office in the Administrative and Clerical Service, and who was prior to such commencement transferred from such office with the assent of the Governor to a pensionable office under another Government, shall be entitled to calculate the period of his employment in such first mentioned office, subject to any arrangement made between the Governor and such Government as to the respective shares payable by them of the pension ultimately due to such officer; provided that

(a) such person shall, within three years from the commencement of this Act, have paid to the Treasurer a sum equal to four per cent. of his average salary for every year or portion of a year of his employment in such first-mentioned office, together with interest on such sum at the rate of four and a half per cent. per annum;

(b) such sum and interest shall be credited to general revenue and the share of such person's pension which may be eventually payable in respect of such first-mentioned office shall be paid out of general revenue.

## CHAPTER IV.

SPECIAL PENSION PROVISIONS RELATING TO POLICE, PRISON,  
AND ASYLUMS.

33. In this Chapter—

“policeman” shall mean a European enrolled member of the Transvaal Police Force (other than a commissioned officer) established under the Transvaal Police Act 1908 or any amendment thereof;

“force” shall mean the Transvaal Police Force established under that Act;

“subordinate officer” shall mean a European subordinate officer as defined by section *three* of the Prisons and Reformatories Ordinance 1906;

“nurse” shall mean any European member (male or female) of the subordinate staff of a Government lunatic or leper asylum in this Colony or of any other Government institution therein used for the treatment of infectious or contagious diseases whose duties bring him into regular daily contact with the patients therein.

Interpretation of terms used in this Chapter.

34. (1) A policeman may be permitted to retire from the force with a pension calculated in accordance with this section on his attaining the age of fifty, provided that the Governor may in his discretion retain him in the force above such age but not after the age of sixty.

Pensions payable to policemen.

(2) A policeman may be retired from the force on an invalid pension calculated in accordance with this section before he has attained the age of fifty, whenever the Governor directs the retirement upon a certificate in the form prescribed by regulation, signed by two medical practitioners and approved by the Commissioner of Police.

(3) Such pension shall be calculated in the following manner:—If the policeman's period of employment is less than ten years, he shall receive a gratuity equal to one month's average salary for each year of employment. If the policeman's period of employment is ten years or more, he shall receive, at his option, either such gratuity, or an annuity equal to one-fiftieth of his average salary for each year of employment, but not exceeding three-fifths of such average salary.

(4) Nothing in this section shall apply to a policeman who is dismissed from the force or retires therefrom by voluntary resignation.

35. A policeman who, having attained the age of forty, has served with diligence and fidelity in the force for not less than twenty years, shall be entitled to retire therefrom upon a gratuity of one month's average salary for every year of employment.

Retirement on pension of policeman at forty if he has served twenty years.

36. If a policeman is disabled for further employment in the force by an injury received by him without his own default in the execution of his duty and as a direct result of performing such duty, the Governor may retire him from the force

Pension in case of policeman injured in execution of duty.

upon a gratuity not exceeding one month's average salary for each year of employment, or upon an annuity not exceeding one-fiftieth of his average salary for each year of employment, but in no case less than one-fifth or more than three-fifths of such average salary; provided that, if he is so severely injured in the circumstances aforesaid as to be incapable of earning a livelihood, the annuity granted under this section shall not be less than one-half such average salary.

Pension to widow of policeman killed in the execution of duty.

37. (1) If a policeman lose his life from an injury in the circumstances described in the last preceding section, whether death occurs immediately or within one year after the injury, there may be paid to or for the benefit of his widow and minor children (if any) either a gratuity not exceeding one month's average salary for each year of employment of the deceased, or an annuity not exceeding one-fiftieth of his average salary for each such year, but in no case more than three-fifths of such average salary.

(2) For the purposes of this section the period of the deceased's employment shall be the actual period of employment enhanced by a number of years to be determined by the Governor not exceeding the number by which the deceased's age at death falls short of fifty.

(3) If a gratuity under the last preceding section has been received by the deceased, the amount thereof shall be deducted in convenient instalments from any payments made under this section.

(4) An annuity granted under this section shall cease in the case of a widow on her remarriage in the case of a son on his attaining the age of twenty-one, and in the case of a daughter on her attaining such age or marrying under such age.

Circumstances under which a policeman's pension may be withdrawn or forfeited.

38. (1) A pension granted to a policeman under this Chapter shall be upon the condition that it is liable to be forfeited and may be withdrawn by the Governor—

(a) if the policeman be convicted of any crime or offence; or

(b) if he knowingly associates with criminals or suspected criminals or persons of bad character; or

(c) if he refuse when required by the Governor in the circumstances prescribed by regulation, to resume duty in the rank at which he retired; or

(d) if he makes use of the fact of his former employment in the force in a manner which the Governor deems improper.

(2) No pension shall be granted to a policeman dismissed from the force for misconduct.

Application of preceding sections of this Chapter to subordinate officers in prisons and to members of nursing staff in asylums etc.

39. (1) The provisions of the preceding sections of this Chapter shall apply *mutatis mutandis* to subordinate officers, and, whenever by such provisions any act is required to be performed by the Commissioner of Police, such act shall in the application of such provisions to subordinate officers be performed by the Director of Prisons.

(2) The provisions of the preceding sections of this Chapter (other than sections *thirty-six* and *thirty-eight*) shall

further apply *mutatis mutandis* to any nurse; provided that any act required by such provisions to be performed by the Commissioner of Police shall, in the application thereof to any nurse, be performed by the head of the department.

(3) A nurse who has served with diligence and fidelity for not less than ten years shall be entitled to retire with a gratuity of one month's average salary for each year of employment.

(4) If a nurse is disabled for further employment by an injury received without his own default in the execution of his duty and as a direct result of performing such duty, or if he is compelled to retire by reason of permanent ill-health occasioned without his own default in the discharge of and specifically attributable to his official duties, the Governor may grant him a gratuity or annuity at the rates prescribed in section *thirty-six*.

40. (1) In calculating a pension under this Chapter—  
“salary” shall include pay, ration allowances, and allowances for quarters or the value of free quarters but no other emoluments;

Mode of calculating and paying pension under this Chapter.

“average salary” shall mean the average of the salary drawn by the policeman, subordinate officer or nurse during the last three years of his period of employment or during the whole of such period whichever may be the less;

and, in the case of a policeman or subordinate officer only—

“period of employment” shall include the period (if any) in which he was previously employed in the Transvaal Town Police, the Transvaal Prisons Department, the South African Constabulary, or the Railway Police, provided he served continuously and was regularly transferred to the force or department (as the case may be) without interruption of such employment and has not already received any annuity, gratuity, or compensation allowance in respect of the previous employment.

(2) All pensions granted under this Chapter shall be paid from general revenue.

## CHAPTER V.

### GENERAL SERVICE PROVIDENT FUND.

41. (1) The Governor shall as from the date fixed as aforesaid for the establishment of the Pension Fund under Chapter III establish a fund to be styled “The General Service Provident Fund” (in this Chapter referred to as the “Fund”) to which every officer permanently in the General Service (other than an officer of such Service whose pension is regulated by the Pensions Ordinance 1906 or by Chapter IV) shall contribute at the rate of two per cent. of his salary.

Establishment of General Service Provident Fund.

(2) A contribution required by this section shall be by a deduction from the salary of the officer made at the time when his salary is ordinarily paid.

(3) The Treasurer shall contribute to the Fund from general revenue an amount equal to two per cent. of the salary of each contributing officer.

*\* (4) The Treasurer shall contribute to the Fund from general revenue an amount equal to the aggregate of the amount payable by contributing officers in respect of approved periods of continuous employment between the first day of September 1900 and the date of the coming into operation of this Act.*

Management of Provident Fund.

42. (1) All contributions to the Fund and any interest accruing thereon shall be lodged to the credit of a separate deposit account called "The General Service Provident Fund Account."

(2) The balances standing to the credit of such account shall from time to time be invested by the Treasurer in manner described in sub-section (3) of section *seventeen*, provided that, whenever an investment of such balances produces interest at a less rate than four per cent. per annum, the difference between the rate of interest produced and four per cent. per annum shall be made good out of general revenue; provided further that interest at the rate of four per cent. per annum shall be paid from general revenue to the Provident Fund Account on the average monthly uninvested balance of the Fund.

Retiring age and payments to contributors to the Provident Fund.

(3) The Governor shall cause a quinquennial valuation of the Fund to be made by an approved actuary.

43. (1) On attaining the age of fifty-five, every officer who has contributed in accordance with this Chapter to the Fund may retire from the General Service and receive from the Fund the following amounts:—

(a) The aggregate amount contributed by him to the Fund, together with the aggregate amount contributed in respect of him by the Treasurer under section *forty-one*; and

(b) a proportionate share, calculated according to his contributions, of any income (as disclosed by the last quinquennial valuation) which has accrued to the Fund; and

(c) a sum represented by the compound interest at four per cent. on the total amount standing to his credit in the books of the Fund, from the date of the last quinquennial valuation or the date of his joining the Fund (whichever is the later) up to the date of his retirement.

(2) Nothing in this section contained shall be construed as preventing the retention in the General Service of an officer thereof over the age of fifty-five and up to the age of sixty-five, and the provisions of this section shall apply in all respects to an officer retained in the General Service beyond the age of fifty-five.

Payments to contributors to Provident Fund who retire voluntarily or on grounds of ill-health or reorganization under the age of fifty-five.

44. (1) If such officer is compelled to retire from the General Service under the age of fifty-five on grounds of ill-health, or if such officer's employment is terminated on the ground of a reduction in or a reorganization of his department he shall be entitled to receive the amounts described in the last preceding section.

\* Sub-sec. (4) added by Act No. 19 of 1909, sec. 9.

(2) If an officer contributing to the Fund voluntarily retires from the General Service under the age of fifty-five (otherwise than on the ground of ill-health), he shall be entitled to a repayment without interest of the contributions made by him to the Fund, but to no other payment.

45. If an officer contributing to the Fund dies while he is in the General Service, the Minister concerned may recommend the payment to any relative who was actually dependent for maintenance on such officer, of any sum standing to his credit in the books of the Fund and in any case not less than the amount of such officer's contribution to the Fund, and, if there be several claimants to such sum, the distribution thereof shall be as the Governor may determine.

Payment to relatives in case of death of contributing officer while in the Service.

46. If an officer contributing to the Fund is dismissed from the General Service for incompetence or misconduct, all contributions made by or in respect of him to the Fund, together with the share of the income or interest that would accrue to him under section *forty-three*, shall be forfeited by him for the benefit of the Fund; provided that the Minister concerned may, in his discretion, authorize the payment to such officer of such sum as would have been payable to him in the circumstances described in sub-section (2) of section *forty-four*.

Persons dismissed from General Service to forfeit contributions to Provident Fund.

47. (1) For the purpose of calculating the period of employment in respect of which any benefits under this Chapter may be received the provisions of section *twenty-five* shall *mutatis mutandis* apply.

Periods in respect of which benefits under this Chapter may be calculated.

(2) If any officer in the General Service desires to contribute to the Fund in respect of any period of continuous employment in such service between the first day of September 1900 and the date of the establishment of the Fund, the provisions of sub-section (2) of section *eighteen*, and sub-sections (1) and (2) of section *nineteen* shall so far as they are applicable apply *mutatis mutandis*.

*\*(3) Any officer of the General Service who has been employed temporarily or on probation during any period subsequent to (or prior to and subsequent to) the date of coming into operation of this Act, and who is admitted to the permanent staff of the General Service, may elect to contribute to the General Service Provident Fund in respect of such temporary or probationary period of employment; provided that within one month from the date on which he is placed upon the permanent staff of the General Service, he signifies his intention to contribute as herein provided. The Treasurer shall thereupon decide whether or not such period may be allowed to count for contribution purposes, and the arrears that shall become liable shall be paid in such manner as is laid down in sub-section (2) of this section.*

\* Sub-sec. (3) added by Act No. 19 of 1909, sec. 10.



## CHAPTER VI.

## TEACHERS' PROVIDENT FUND.

Establishment of Teachers' Provident Fund.

48. (1) The Governor may establish a Fund to be known as the Teachers' Provident Fund and, notwithstanding anything contained in the Education Act 1907 or any regulations in force thereunder, every teacher who has been admitted or who may hereafter be admitted to the regular teaching staff of the Education Department shall from the commencement of this Act or thereafter from the date of his being so admitted contribute to the Teachers' Provident Fund at the rate of three per cent. of the salary payable to such teacher; provided that any male teacher so admitted before the commencement of this Act and any female teacher so admitted before or after the commencement of this Act shall have the option, instead of contributing to such Fund, of taking the benefit of a grant from general revenue of a gratuity of one month's pay for each year of service; provided further that no such gratuity shall exceed one year's pay.

(2) A contribution required by this section shall be by a deduction from the salary of the teacher made at the time when his salary is ordinarily paid.

(3) The Treasurer shall contribute to such Fund from general revenue an amount equal to three per cent. of the salary of each contributing officer.

(4) All the provisions of Chapter V shall *mutatis mutandis* be incorporated in this Chapter for the purposes of establishing, administering, managing, and determining the benefits receivable from the Teachers' Provident Fund.

Cancellation of so much of existing contracts of teachers as provides for payment of gratuities on retirement out of general revenue.

49. Save as is otherwise provided in sub-section (1) of section *forty-eight* so much of the contract of employment subsisting at the commencement of this Act of a teacher on the regular teaching staff aforesaid as provides for a grant from general revenue of a retiring gratuity of one month's pay for each year of service shall be cancelled from such commencement; provided that nothing in this section contained shall affect or abridge the right of a party to such contract to receive at his final retirement any gratuity due in respect of a period of employment prior to the commencement of this Act, in addition to any payment from the Teachers' Provident Fund under this Chapter.

Participation in benefits and obligations attaching to Teachers' Provident Fund by teachers in public schools etc. not on regular teaching staff.

50. Any teacher employed in a school, class, or institution to which a grant-in-aid is made under the Education Act 1907 (other than an aided-farm-school as therein defined) may participate in the benefits of the Teachers' Provident Fund on the same terms and conditions as are by this Chapter prescribed for teachers of the regular teaching staff.

## \* CHAPTER VII.

PENSIONS TO OFFICIALS OF THE LATE SOUTH AFRICAN  
REPUBLIC.

51. (1) Within two years after the commencement of this Act the Governor may consider the claim of any person who alleges—

(a) that prior to or on the eleventh day of October 1899 he was for a period of at least one year an official of the South African Republic; and

(b) that he lost his employment in such service on account of the annexation of the territories of the South African Republic to His Majesty's dominions; and

(c) that he was such an official as is described in article two of Law No. 16 of 1899, and would if such law had remained in operation have been entitled to a pension thereunder,

and, if satisfied that such claim is well founded may grant to the claimant out of general revenue a gratuity or annuity as from the commencement of this Act (according to the period of his continuous employment up to the first day of September 1900) at three-fourths of the rates prescribed in section *twenty-six* of this Act, the period of such continuous employment being calculated as described in Chapter III.

(2) In lieu of paying such gratuity or annuity in cash to the claimant, the Governor may in his discretion cause the moneys representing the same to be applied in such manner as will in the opinion of the Treasurer secure the greatest benefit to the person to whom it has been granted.

(3) The amount of any annuity or gratuity which may be granted under sub-section (1) shall, if the person to whom it is granted is already receiving or has already received a pension or compassionate allowance from general revenue, be reduced by the amount of such pension or compassionate allowance, or if circumstances require, the annual value thereof calculated actuarially.

†52. (1) When a person who is eligible for an annuity or gratuity under the last preceding section is employed in the Public Service, he may be granted such annuity or gratuity, provided that the amount of the annuity or the annual value calculated actuarially of the gratuity (as the case may be) when added to his salary in the Public Service does not exceed the undiminished salary in his last appointment as an official of the South African Republic.

(2) If such amount when added to the salary in the Public Service exceeds his undiminished salary as an official

Power to pay pensions out of general revenue to officials of late South African Republic in respect of employment prior to date of annexation.

Provisions in case of officials of South African Republic who are in the Public Service.

\* For award of pensions, etc., see Govt. Notices Nos. 171 of 1909 (*Gazette*, 12/2/09), 327 of 1909 (*Gazette*, 19/3/09), 511 of 1909 (*Gazette*, 14/5/09), 871 of 1909 (*Gazette*, 30/7/09), 1147 of 1909 (*Gazette*, 8/10/09), 1325 of 1909 (*Gazette*, 26/11/09), 54 of 1910 (*Gazette*, 21/1/10). The S. A. Republic Officials' Pension Commission has been dissolved by Govt. Notice No. 100 of 1910 (*Gazette*, 4/2/10).

† See, however, Act No. 19 of 1909, sec. 11.

of the South African Republic the amount of annuity or gratuity paid to him shall be proportionately abated.

(3) On the final retirement of such person from the Public Service he shall be entitled to receive any annuity or gratuity granted under section *fifty-one* in addition to any pension or other payment that may become due to him under any other section of this Act.

‡53. The Governor may, at any time within two years after the commencement of this Act, consider a claim in respect of a widow who has not re-married or minor child of an official of the South African Republic, *or failing a widow or minor child, any relative actually dependent for maintenance on such an official, who, being such an official as is described in sub-section (1), paragraphs (a) and (c) of section fifty-one, died within any period between the eleventh day of October, 1899, and the date on which the said period of two years expired,* and grant out of general revenue to or for the benefit of such widow or minor child a gratuity, not exceeding one year's salary of such official, provided that if the late husband of such widow shall during his life have received a pension or gratuity from general revenue the same shall be taken into account in fixing the amount of gratuity payable to such widow, and if there be several claimants to the benefit of the gratuity, the distribution thereof shall be as the Governor may determine.

## CHAPTER VIII.

### GENERAL AND MISCELLANEOUS.

§54. (1) The Governor may from time to time make, alter, or rescind regulations (not inconsistent with this Act) for all or any of the following purposes, namely—

- (a) for the grading, classification, promotion, transfer, discipline, conduct, powers and duties, hours of attendance, and leave of absence of officers, and as to the conditions of their employment in the several departments of the Public Service;
- (b) prescribing the rates of overtime payments, and of travelling, climatic, and local allowances of officers;
- (c) prescribing the form and manner of keeping and publishing the accounts of the Administrative and Clerical Service Pension Fund, and of the Provident Funds mentioned in Chapters V and VI;

‡ As amended by Act No. 19 of 1909, sec. 12; words in italics inserted and substituted by said section.

§ See Act No. 19 of 1909, sec. 3. For regulations, see Govt. Notices Nos. 273 of 1909 (*Gazette*, 12/3/09), hospital treatment, Lunatic Asylum; 397 of 1909 (*Gazette*, 16/4/09), hours of attendance and discipline; 537 of 1909 (*Gazette*, 14/5/09) and 963 of 1909 (*Gazette*, 20/8/09), medical certificates; 538 of 1909 (*Gazette*, 14/5/09), certificates of character; 782 of 1909 (*Gazette*, 2/7/09), treatment in Rietfontein Hospital of members and staff; 783 of 1909 (*Gazette*, 2/7/09), hospital treatment, Leper Asylum staff; 1386 of 1909 (*Gazette*, 10/12/09), keeping of register by Public Service Board.

Power to grant gratuity to widow or minor child of official of South African Republic.

Power to make regulations.

- (d) prescribing the basis of calculating the value of free quarters for the purpose of determining the amount of an officer's salary in relation to a pension;
- (e) prescribing the forms and periods of notice to be given by an officer who is retiring from the Public Service and claiming on retirement a pension under this Act, and the conditions governing the grant of leave of absence to any such officer immediately prior to his retirement;
- (f) prescribing the basis of calculating the proportion of pension payable to any officer who, having been employed in the Public Service or the Inter-Colonial Council or continuously in the Public Service and the Inter-Colonial Council, has been transferred under proper authority to the civil service of the United Kingdom or of a British Possession; or to any officer who having been employed in any such civil service has been transferred after the commencement of this Act under proper authority to the Public Service;
- (g) prescribing the method of calculating the proportion of pension payable from general revenue, or from the Pension Fund, or from the General Service Provident Fund, or from the Teachers' Provident Fund (as the case may be), on the retirement of an officer who has been partly employed in the Administrative and Clerical Service, in the General Service, as a teacher in the Education Department, in the Transvaal Police, in the Prisons Department, in an asylum or other institution described in Chapter IV, or in any or all such classes of employment;
- (h) for the establishment of a medical board to examine and report upon any application for a pension on medical grounds, or upon any other matter relating to the physical or mental fitness of an officer or other person for employment in the Public Service, and prescribing the form and conditions of medical certificates to be furnished with any application for such employment or for a pension, and the procedure to be observed in furnishing such certificates;
- (i) prescribing the manner of verifying the period of employment of an officer in calculating the amount of his pension;
- (j) prescribing the amount of security to be given by any person in the Public Service who holds an appointment involving the receipt, custody, or payment of public moneys, the receipt, custody, or issue of stamps, and regulating all matters relating to the administration and investment of amounts received as such security;
- (k) generally for the better carrying out of the objects and purposes of this Act.
- (2) Every such regulation shall be of force and effect when it has been published in the *Gazette*. A copy of every

such regulation, or of any alteration or rescission thereof, shall be laid upon the Tables of both Houses of Parliament within seven days after the same has taken effect if Parliament be then in session, or if it be not then in session within seven days after the commencement of its next ensuing session.

Powers as to general reduction of salary or suspension of increments of pay in certain circumstances.

55. Nothing in this Act contained shall be construed as preventing the Governor, when authorized thereto by Resolution of the Legislative Assembly, from making at any time a general reduction of officers' salaries throughout the Public Service or any portion thereof—

(a) if the reduction appears expedient on grounds of public policy; or

(b) if he is satisfied that the position of the public finances requires the reduction;

nor under like circumstances from suspending or reducing all or any portion of increments of pay in the Public Service or any portion of the Public Service for such period as he may determine.

Leave of absence.

56. The leave of absence which may be granted to an officer under the regulations may not be claimed as of right but shall be granted subject to the exigencies of the Public Service.

Incremental pay.

57. (1) No officer in receipt of incremental pay, unless he is engaged to perform duty or work on a special contract entitling him to regular increments, may claim as of right incremental pay.

(2) Increments shall not be granted to an officer in receipt of incremental pay, unless the head of his office gives a certificate, countersigned by the head of the department or by such other person as the Minister may designate for the purpose, that the officer's work and conduct have during the year immediately preceding been satisfactory.

Whole time of officer to be at disposal of Government.

58. Unless it is otherwise provided in the conditions of his appointment—

(1) every officer shall place the whole of his time at the disposal of the Government;

(2) no officer shall engage himself to perform remunerative work outside the Public Service without the permission of the Minister concerned;

(3) no officer may claim as of right additional remuneration in respect of any duty in the Public Service which he is required by competent authority to perform.

Service under Inter-Colonial Council to count for pension, and officers transferred from Cape Service to Governor's Office to fall under Ordinance No. 30 of 1906.

59. (1) Any officer who before the commencement of this Act was transferred under competent authority from employment under the Inter-Colonial Council to employment in the Public Service shall, provided his employment under the Inter-Colonial Council was continuous, be entitled to have the whole period thereof reckoned for purposes of pension.

(2) Any member of the South African Constabulary who—

(a) was transferred thereto under competent authority from pensionable employment under another Government or Administration; or

(b) was previously in the pensionable employment of another Government or Administration and who enlisted in or was appointed to such Constabulary under agreement that the period of such pensionable employment would be reckoned as employment in such Constabulary for the purposes of pension, shall be entitled to reckon, for purposes of pension under this Act, such previous pensionable employment and shall be entitled to pension under this Act in respect thereof or, if this Act is less favourable to him than the pension regulations of the South African Constabulary approved by the Inter-Colonial Council on the second day of June 1906, then to the benefits provided by those regulations.

(3) Any officer who—

(a) at the commencement of this Act was on the regular clerical staff of the Governor's office; and

(b) was prior to such commencement transferred under competent authority with pensionable rights and continuity of service to such office from the civil service of the Colony of the Cape of Good Hope

shall be deemed to be a pensionable officer as defined by section one of Ordinance No. 30 of 1906 and shall have the rights and be subject to the obligations imposed by that Ordinance.

*\*(4) Any officer who, between the first day of September 1900 and the date of the coming into operation of this Act, was employed for any period in any of the following Departments or offices, and whose employment conforms to section twenty-five of this Act, shall be entitled to count such period for pension purposes:—*

*(a) Transvaal Provisional Constabulary.*

*(b) Imperial Military Railways, South African Constabulary, or other department subsequently absorbed into the Inter-Colonial Council.*

*\*5. In the event of any officer of the staff of the Transvaal Land Settlement Board, established under the provisions of section fifty-two of the Transvaal Constitution Letters Patent 1906, receiving any appointment in the Administrative and Clerical Service, either before or at the time of the expiry of the Board's period of office, it shall be lawful to permit such officer to contribute to the Pension Fund in respect of any continuous period of employment with the Board and any previous employment falling within the provisions of this Act; provided that an amount equivalent to the arrear contributions of such officer, together with compound interest at the rate of eight per cent. per annum calculated on the said contributions up to the date of the officer's appointment to the Administrative and Clerical Service is paid to the Pension Fund by the Land Settlement Board on behalf of such officer. The provisions of sub-section (2) of section eighteen and sub-sections (1) and (2) of section nineteen shall apply mutatis mutandis in every such case.*

\* Sub-secs. (4) and (5) added by Act No. 19 of 1909, sec. 13.

*\* (5) If any person to whom the Pensions Ordinance 1906 or the pension provisions of this Act have been declared applicable by proclamation under paragraph (c) of section sixty-eight of this Act (as hereby amended) has, when they are so declared, acquired rights under that Ordinance or those provisions, his rights shall be continued, subject to the obligations attaching to those rights, during the time that he holds office under the bank in that paragraph described, and he shall be entitled to count for purposes of pension as one continuous period of employment, both the period which he was at the date of his appointment to office under the said bank, entitled so to count and the period during which he held such an office.*

Suspension or forfeiture of pension in certain cases on order of Governor.

60. If any person becoming entitled to or actually in receipt of a pension be found after enquiry to have been guilty of an act or omission which would, if such act or omission had been discovered prior to his so becoming entitled, have rendered him liable to dismissal from the Public Service, or if any person be found to have wilfully made a false statement for the purpose of obtaining a pension knowing the same to be false, or if a person in receipt of a pension fails to comply with any reasonable request, made by the Minister concerned, to afford all assistance and information in his power relating to any appointment formerly held by him, then the Governor may order that the right to any pension to which such person has become entitled or of which he is in receipt shall be suspended or forfeited.

Power to reduce pensions where officer has not rendered satisfactory service.

61. Whenever the Governor is satisfied after enquiry that a pensionable officer has not rendered satisfactory service he may order that a pension less than is ordinarily payable in accordance with this Act be paid to such officer; provided that such officer shall not receive owing to the exercise of the powers of this section, in the case of an annuity, less than the annual value calculated actuarially of any sum contributed by him, or in the case of a gratuity, less than any actual sum contributed by him in accordance with this Act.

Commutation of small pensions.

† 62. If an annuity not exceeding *fifty* pounds is granted under this Act the Governor may, at the request of the recipient commute such annuity by a single cash payment calculated actuarially according to the period for which the recipient may be expected to draw the annuity.

Pensions not to be assigned or executable.

63. No pension shall be assignable, or transferable, or be capable of being hypothecated, nor shall it be liable to be attached or subjected to any form of execution under a judgment or order of any court of law.

Pensions to cease on conviction.

64. If any person in receipt of a pension be convicted before any court in His Majesty's dominions of any crime or offence and be sentenced therefor to death, or to any term of imprisonment with hard labour exceeding twelve months, and shall not within two months thereafter receive His Majesty's free pardon, such pension shall forthwith determine;

\* Sub-sec. (6) added by Act No. 19 of 1909, sec. 13.

† As amended by Act No. 19 of 1909, sec. 14; word in italics substituted by said section.

provided that the Governor may, if he think fit, order that such pension shall revive if such person at any time after such conviction or sentence receive His Majesty's free pardon; provided further that the Governor may, if he think fit, authorize the payment to or for the benefit of such person's wife or minor children, or, failing a wife and minor children, to any children or relatives dependent on him, of such portion of the pension as may be considered necessary for her or their maintenance.

65. (1) If any person in receipt of a pension becomes insolvent such pension shall forthwith determine; provided that in any such case the Governor may order that all or any part of the annuity payable to such insolvent under this Act be paid to or for the benefit of all or any of the following persons:—namely, to or for the benefit of such insolvent, his wife or any minor children, or, failing a wife and minor children, to any children or relatives dependent on him for maintenance.

Pensions to cease on insolvency but may be restored on rehabilitation.

(2) Whenever a pension has determined under this section, the Governor may order that it shall revive on rehabilitation of the insolvent, and that he shall receive an annuity at the same rate, and under the same conditions as before insolvency.

66. No payment made or to be made to a person—

(a) out of the General Service Provident Fund; or

(b) out of the Teachers' Provident Fund,

shall be assignable, or transferable, or capable of being hypothecated, or liable to be attached or subjected to any form of execution under a judgment or order of a court of law.

Payments out of Provident Funds not to be assignable or executable

67. Nothing in this Act or the First Schedule hereto contained shall be deemed to affect anything contained in the Audit and Exchequer Act 1907 relating to the appointment of the Auditor-General and the Assistant Auditor-General, or to the tenure of office, or removal from office, or the powers and duties of the Auditor-General. The provisions of the Pensions Ordinance 1906 or Chapter III of this Act (which-ever may be applicable) shall apply in respect of the age of retirement and the retiring pension of the Auditor-General, and any regulations made under the provisions of section *fifty-four* of this Act in so far as they are not in conflict with the provisions of the Audit and Exchequer Act 1907 shall be deemed to apply to the Auditor-General and the Assistant Auditor-General, unless otherwise provided by the conditions of their appointments.

Saving as to Auditor-General.

68. The Governor may, at any time and from time to time, by proclamation in the *Gazette*—

(a) apply any provision of Chapters I and II, and this Chapter to members of the teaching staff of the Education Department; and

(b) apply to members of the Transvaal Police and to subordinate officers of the Prisons Department, any provisions of the same Chapters which are not already in terms of this Act specifically applicable to them;

Power to apply certain portions of this Act to teachers police and subordinate prisons officers and Land Bank officials.



\* (c) declare that the provisions of the Pensions Ordinance 1906 or the pension provisions of this Act (whichever may be applicable) shall apply to the manager or any member of the staff of the bank established under Act No. 26 of 1907.

Title and date of operation of Act.

† 69. This Act may be cited for all purposes as the Public Service and Pensions Act 1908, and shall not come into operation unless and until the Governor shall have declared by proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the Act, and thereafter it shall come into operation on such date as the Governor may by like proclamation declare.

#### FIRST SCHEDULE.

##### CLASSES OF OFFICERS INCLUDED IN THE ADMINISTRATIVE AND CLERICAL SERVICE.

###### *His Excellency the Governor's Office—*

All whole time officers on the regular clerical staff.

###### *Auditor-General's Office—*

All whole time officers on the regular staff except caretakers and messengers.

###### *Prime Minister's Division—*

All whole time officers employed on the regular staff of the Division, except caretakers and messengers.

###### *Minister of Agriculture's Division—*

All whole time officers employed on the regular staff of the Division, except—

- (a) stock inspectors and stockmen ;
- (b) foresters and nursery assistants ;
- (c) farm overseers ;
- (d) inspectors of plants ;
- (e) locust officers ;
- (f) assistant horticulturists ;
- (g) assistant to poultry expert ;
- (h) caretakers and messengers and similar officers.

###### *Colonial Secretary's Division—*

All whole time officers employed on the regular staff of the Division except—

- (a) members of the subordinate permanent staff of the Transvaal Volunteers ;
- (b) the teaching staff of the Education Department (other than the Head Master of the Normal College) ;
- (c) rangers in the Government Game Reserves ;
- (d) attendant and nursing staffs, dispensers, storekeepers, storemen, overseers, farm bailiffs, farm hands, porters, cooks, servants and other similar officers at Government hospitals, asylums and similar institutions ;
- (e) all workmen at the Government Printing Works engaged at a weekly wage ;
- (f) messengers and caretakers and similar officers.

###### *Attorney-General's Division—*

All whole time officers employed on the regular staff of the Division except—

- (a) Deleted by Proc. (Admn.) No. 88 of 1909.
- (b) issuers of process ;
- (c) interpreters of the inferior courts ;
- (d) messengers of magistrates' courts ;
- (e) ushers and clerks ;
- (f) executioners ;
- (g) library attendants ;
- (h) subordinate officers of the Prisons Department ;
- (i) members of the Transvaal Police (other than commissioned officers thereof) ;

\* Par. (c) substituted by Act No. 19 of 1909, sec. 15. The provisions of this Act were applied to the manager and staff of the Land Bank by Procs. (Admn.) No. 39 of 1909 and 33 of 1910.

† For Royal Assent and date of operation (1st January, 1909), see Proc. (Admn.) No. 113 of 1908.

- (j) messengers, caretakers, servants and similar officers ;  
 \*(k) the staff of the Government Industrial School at Standerton (other than the House Father and the Head Schoolmaster).

*Minister of Mines' Division—*

All whole time officers employed on the regular staff of the Division except—mechanics, messengers, caretakers and similar officers.

*Colonial Treasurer's Division—*

All whole time officers employed on the regular staff of the Division except—

- (a) embossing machine operators ;  
 (b) outdoor customs officers ;  
 (c) telephone operators ;  
 (d) storemen ;  
 (e) postmen and telegraph messengers ;  
 (f) liftmen, workmen and similar employees of the postal and telegraph departments ;  
 (g) messengers, caretakers and similar officers.

*Minister of Lands' Division—*

All whole time officers employed on the regular staff of the Division except—  
 (a) persons engaged at the settlements of Potchefstroom and Heidelberg and any similar settlement ;

- (b) water bailiffs and storekeepers of the Irrigation Department ;  
 (c) messengers, caretakers and similar officers.

*Minister for Native Affairs' Division—*

All whole time officers employed on the regular staff of the Division except—  
 (a) hospital orderlies ;

- (b) interpreters ;  
 (c) compound attendants ;  
 (d) impression takers ;  
 (e) messengers, caretakers and similar officers.

*Minister for Public Works' Division—*

All whole time officers employed on the regular staff of the Division except—

- (a) gardeners ;  
 (b) doorkeepers, caretakers, night watchmen ;  
 (c) messengers, drivers, workmen and other similar officers.

SECOND SCHEDULE.

Junior clerks and similar officers in the grades £100 rising by £10 per annum to £160.

Third class clerks and similar officers in the grades £180 rising by £15 per annum to £240.

Second class clerks and similar officers in the grades £260 rising by £20 per annum to £340.

First class clerks and similar officers in the grades £360 rising by £20 per annum to £440.

Non-professional officers in the Administrative grades in receipt of salaries of less than £600 per annum.

Act No. 20 of 1908.]

[Promulgated 28th August, 1908.

## \* AN ACT

TO PROVIDE FOR THE ORGANIZATION AND DISCIPLINE OF, AND THE PAYMENT ON RETIREMENT OF PENSION ALLOWANCES, AND OTHER BENEFITS TO PERSONS IN THE EMPLOYMENT OF THE RAILWAY ADMINISTRATION.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

## PRELIMINARY.

1. In this Act, unless inconsistent with the context ;
  - “actuary” shall mean a Fellow of the Institute of Actuaries of London or of the Faculty of Actuaries in Scotland ;
  - “Board” shall mean the Railway Board nominated by the Governments of The Transvaal and Orange River Colony under a Convention dated the second day of June 1908 providing for the joint working and administration of the Central South African Railways in each such Colony (the terms of which Convention are set forth in the First Schedule to the Inter-Colonial Conventions Ratification Act 1908) and shall include any person or body of persons in whom the administration and control of so much of such railways as are in this Colony may after the termination of such Convention be lawfully vested ;
  - “employee” shall mean any person of European descent in the employment of the Administration who is remunerated by wages (with or without local, climatic, or other allowance) calculated at a daily rate or in any other manner than annually ;
  - “fixed date” shall mean the date fixed by the Board under section *twelve* as the date of the establishment of the Railway Superannuation Fund therein referred to ;
  - “General Manager” shall mean the officer mentioned in article *twelve* of the Convention set forth in the First Schedule to the Inter-Colonial Conventions Ratification Act 1908, or any person lawfully acting in such capacity ;
  - “interest” shall mean, in contradistinction, to compound interest, simple interest ;
  - “Joint Service” shall mean the common service of the Administration and one or more other railway administrations of South Africa ;

\* See Act No. 9 of 1910.

- “medical practitioner” shall mean a medical practitioner duly registered as such under the laws of The Transvaal or of The Orange River Colony ;
- “member” shall mean any railway servant who is for the time being a contributor to the superannuation fund established under Chapter III in accordance with the provisions of that Chapter ;
- “officer” shall mean any person of European descent in the employment of the Administration who is remunerated by salary calculated at an annual in contradistinction to a daily or other rate or to any form of remuneration other than an annual salary ;
- “pension” shall mean an annuity, or gratuity (as the context may require), payable under Chapter III, IV, V or VI ;
- “pensionable emoluments” shall, when used in Chapter III, mean the emoluments described in section *twenty-three* as the emoluments on which contributions to the Fund shall be paid ; and, when used in Chapters IV and V, shall mean the emoluments on which by section *sixty-four* pensions to transferred servants shall be computed ;
- “prescribed” shall mean as prescribed by this Act or by regulation, or by the Board or any officer authorized under this Act or the regulations ;
- “railway servant” shall include both an officer and an employee ;
- “regulation” shall mean a regulation made and in force under section *eleven, fourteen or seventy-six* of this Act ;
- “revenue” shall mean the revenues of the Administration referred to in section *three* of the Inter-Colonial Conventions Ratification Act 1908 ;
- “salary” shall mean the annual pay of an officer and shall include any special or personal allowance attached to a particular office if such allowance when granted be specially declared to be part of pensionable emoluments ;
- “temporary railway servant” shall mean a railway servant holding an office or post prescribed by the Board as temporary ;
- “transferred servant” shall mean any such railway servant as is described in section *forty-nine* ;
- “the Administration” shall mean the Railway Administration of the Central South African Railways as existing subsequent to the second day of June, 1908, and incorporated under the Inter-Colonial Conventions Ratification Act 1908 and shall include any person or body of persons in whom the administration and control of so much of such railways as are in this Colony may be vested after the termination of the convention set forth in the First Schedule to the said Act ;
- “the old Administration” shall mean the Railway Administration of the Central South African Railways as existing prior to the second day of June, 1908, and shall include

the Imperial Military Railways Administration and any military administration of such railways in The Transvaal or the Orange River Colony ;

“ the Fund ” shall mean the superannuation fund established under Chapter III, and shall include all moneys which, under this Act or any amendment thereof or the regulations, form part of or are due to such fund ;

“ the Service ” shall mean the system of employment of persons of European descent by the Administration in the discharge of duties in a department or office thereof ;

“ wages ” shall mean the pay of an employee calculated at a daily rate or in any other manner than annually.

## CHAPTER I.

### ORGANIZATION OF THE RAILWAY SERVICE.

2. The Service shall be divided into officers and employees.

Division of  
the Railway  
Service.

Appointment  
of railway  
servants.

3. (1) The Board may from time to time appoint so many railway servants as the Administration may require, may increase or, without prejudice to the rights which a transferred servant may have under Chapter IV, diminish the number of railway servants and their emoluments in such manner as from time to time may be prescribed, and, subject to the provisions of this Act and without prejudice to the same rights, may discharge any railway servant.

(2) The Board may from time to time delegate—

(a) in the case of officers, to the General Manager ; and

(b) in the case of employees, to any officer ;

the powers of appointment or discharge vested in it under sub-section (1) ; provided that if a railway servant be appointed or promoted to an office or post in the Service, the emoluments of which exceed four hundred pounds per annum, the appointment or promotion shall be approved by the Board.

(3) All appointments to permanent employment in the Service shall be made as in this Act is specially provided.

(4) Every railway servant who is employed by the Administration at the commencement of this Act shall, for the purposes thereof, be deemed to have been appointed under sub-section (1), and, unless he is a temporary railway servant, to be in permanent employment.

4. (1) Subject to the provisions of sub-section (4) of this section, every appointment of a railway servant shall be made on probation for such period as may be prescribed for each particular class of employment.

(2) Every railway servant who—

(a) has served the prescribed period of probation ; and

(b) has attained the age of eighteen years ; and

(c) has passed a medical examination of fitness ; and

(d) possesses such educational qualifications as may be prescribed ; and

Period for  
which  
appointments  
to be made.

(e) has received a certificate of efficiency and good character signed by the head of his office,

shall be appointed to permanent employment, unless—

(i) he is a temporary railway servant; or

(ii) he is employed under a special contract between himself and the Administration.

(3) The Board shall from time to time prescribe what classes of employment shall be temporary.

(4) The Board may whenever it is necessary in the interests of the Administration, appoint for a short period without probation persons to employment not prescribed as temporary; provided that every person so appointed shall, after twelve continuous months of such employment, either be discharged or, if his services are further required, be appointed to permanent employment subject to the provisions of sub-section (2).

(5) The Board may prescribe that the appointment to permanent employment of any railway servant or class of railway servants shall not be made until the expiry of such additional period of probationary employment over and above the ordinary period as in each case may be determined.

5. (1) Whenever a vacancy occurs in any branch of the Service, regard shall be had in filling the vacancy to the relative efficiency of two or more railway servants eligible to fill it, or, if their claims as regards efficiency are equal, then to their relative seniority.

Promotion.

(2) Any railway servant who alleges that a vacancy has been filled without regard to the provisions of this section, may appeal to the General Manager whose decision in the matter shall be final.

6. (1) Before any railway servant is, on the ground of inefficiency, dismissed from the Service, or reduced in rank or emoluments, a definite written charge shall be prepared and transmitted or delivered to him, and an enquiry into the same shall be held at which he shall be afforded an opportunity of showing cause against the dismissal or reduction. He shall further be required to state in writing whether he admits or denies the charge and to give any explanation which he may desire to make.

Dismissal or reduction on grounds of inefficiency.

(2) If such enquiry shall disclose that the railway servant is inefficient and that his inefficiency is solely due to causes within his own control, he shall be deemed to have been guilty of misconduct and shall be dealt with as provided in section *ten*.

(3) If such enquiry shall disclose that the railway servant is inefficient but that his inefficiency is not solely due to causes within his own control, he shall be dealt with as the merits of the case may require; provided that if he is removed from the Service and is a member of the Fund he shall receive from revenue an amount not less than his contributions to the Fund.

(4) If such enquiry shall disclose that the railway servant is in no way inefficient, he shall be reinstated or be appointed to another office or post, and in either case without reduction of emoluments.

(5) Pending the result of the enquiry the railway servant shall be suspended from the duties but not from the emoluments of his office or post.

(6) No railway servant shall, on the ground of inefficiency, be dismissed from the Service or reduced in rank or emoluments, except—

(a) in the case of an officer, upon the authority of the General Manager; and

(b) in the case of an employee, upon the authority of the head of his department.

(7) Nothing in this section shall apply to a transferred servant.

Retrenchment.

7. If the Administration dispenses with the services of a railway servant in permanent employment (other than a transferred servant or the officers mentioned in Chapter VI) prior to his superannuation owing to a reduction in or reorganization of staff and not for reasons of ill-health, fraud, dishonesty, misconduct, or inefficiency, the following provisions shall apply—

(1) An officer who does not elect under section *sixteen* to become a member of the Fund shall, in respect of a period of continuous employment in the Service before the fixed date receive from revenue a gratuity in respect of and calculated on the basis of his salary at the time of his leaving the Service, as described in section *twenty-three* for each year of employment on the following scale:—

<i>Length of Employment.</i>	<i>Gratuity.</i>
Under one year .. .. .	Nil
One year .. .. .	One-half month's salary
Two years .. .. .	One month's salary
Three " .. .. .	Two " "
Four " .. .. .	Three " "
Five " .. .. .	Four " "
Six " .. .. .	Five " "
Seven " .. .. .	Six " "
Eight " .. .. .	Seven and a half months' salary
Nine " .. .. .	Nine months' salary
For any period over ten years	{ One month's salary for each completed year of employment;

In calculating a gratuity employment before the age of eighteen shall not be reckoned.

(2) An officer, who under section *sixteen* elects to become a member of the Fund, shall receive from revenue a gratuity calculated in accordance with the scale set forth in subsection (1) in respect of his whole period of continuous employment in the Service, both before and after the fixed date; provided that if any such officer has paid arrear contributions in accordance with section *twenty-one* in respect of his employment before the fixed date, such arrear contributions shall, in addition, be refunded to him; and provided further that if the officer's continuous period of employment both before and after the fixed date shall, in the aggregate, have been fifteen years or more, or, in the case of an officer whose age is forty-five years or more, shall, in the aggregate, have

been ten years or more, he shall receive from revenue, at his option, either an annuity equivalent in amount to the annuity he would receive from the Fund on retirement owing to ill-health, or a gratuity calculated as aforesaid.

(3) If on or after the fixed date an officer does not elect under section *sixteen* to join the Fund no period of employment after such date shall for the purposes of this section be reckoned as employment.

(4) An employee shall receive such gratuity from revenue as the Board may from time to time prescribe; provided that if he is a member of the Fund and his continuous period of employment shall have been twenty-five years or more and he shall have attained the age of fifty, he shall receive from revenue, at his option, either an annuity equivalent in amount to the annuity which he would receive from the Fund on retirement owing to ill-health, or a gratuity of not less than six months' wages exclusive of allowances.

(5) In the case both of an officer and an employee the amount paid from revenue shall in no case be less than the amount which such officer or employee (as the case may be) has contributed to the Fund.

(6) A gratuity in this section shall be calculated by the year and by the month, but fractions of a month shall be disregarded.

(7) Nothing in this section shall apply to a temporary railway servant or any such railway servant as is described in sub-section (4) of section *four*, until he is taken into permanent employment. Thereupon such period of employment as is reckoned in the period of membership under sub-section (3) of section *sixteen* shall be reckoned for the purposes of calculating the gratuity.

(8) No payment shall be made in respect of any period of accumulated leave of absence.

## CHAPTER II.

### DISCIPLINE IN THE RAILWAY SERVICE.

8. Any railway servant who—

- (a) absents himself from duty without leave; or
- (b) is negligent in the execution of his duty; or
- (c) wilfully disobeys or disregards any lawful order given by competent authority; or
- (d) habitually uses to excess any intoxicant or drug; or
- (e) becomes insolvent or assigns his estate for the benefit of or makes an arrangement with his creditors, or has a decree of civil imprisonment made against him by any court of law; or
- (f) trades or carries on a business or occupation on his own account and without the sanction of the General Manager; or
- (g) discloses information acquired in the course of his duties otherwise than in the discharge thereof; or

Misconduct  
by railway  
servants—  
what is.



(h) conducts himself in a disgraceful, improper, or unbecoming manner, either in the discharge of his duties or in public; or

(i) accepts or demands any commission, fee, or reward, pecuniary or otherwise, except from the Administration, for the performance of his duties, or fails to report to the head of his office, or, if he is the head of an office, to the head of his department, the offer of any such commission, fee, or reward; or

(j) dishonestly abuses any travelling privileges or facilities granted to him by the Administration as a railway servant; or

(k) misappropriates any railway property under circumstances which do not constitute a criminal offence; or

(l) is convicted of any criminal offence and sentenced to imprisonment without the option of a fine, unless he shall have obtained a free pardon for the offence;

shall be deemed to have been guilty of misconduct and may be dealt with as in this Chapter is provided.

Procedure to be followed on charges of misconduct.

9. (1) A railway servant who is charged with misconduct of a minor nature shall be afforded an opportunity of being heard and any admission or denial he may make or explanation he may give shall be considered by the head of his department or other officer delegated thereto by the head of his department.

(2) A railway servant who is charged with misconduct not of a minor nature may be suspended temporarily from duty and from the emoluments of his office by the head of his office who shall, in the case of an officer, report all the facts to the General Manager. The order of suspension shall as soon as possible be reduced to writing and a copy thereof signed by the person making the order, together with a copy of the charge on which the order was made, shall forthwith be transmitted or delivered to the servant suspended. The railway servant suspended shall be required to state in writing whether he admits or denies the charge and to give any explanation he may desire to make. The matter shall be considered, in the case of an officer, by the General Manager, and, in the case of an employee, by the head of the department.

(3) If the railway servant be found not guilty of the misconduct charged the order of suspension shall be removed and the emoluments withheld during the period of suspension paid to him.

How proved misconduct may be dealt with.

10. (1) When an officer is found guilty of misconduct—

(a) if the misconduct is of a minor nature, a fine may be imposed on him recoverable by deductions from salary or he may be cautioned or censured, by the head of his department or by another officer delegated thereto by the head of his department; or

(b) if the misconduct is not of a minor nature, the General Manager may impose all or any of the following penalties, that is to say, a fine recoverable by deductions from salary, stoppage of leave, stoppage of increments of pay, reduction in salary, reduction in rank, order to resign office, or dismissal.

(2) When an employee is found guilty of misconduct the provisions of sub-section (1) shall apply according to the nature

of the misconduct, save that the head of the department or, if delegated thereto by the head of department, any other officer may exercise any of the powers of the said sub-section without reference to the General Manager.

11. The Board may from time to time make, alter, or rescind regulations not inconsistent with this Act more particularly providing for the procedure in investigating and dealing with charges of misconduct, the officers by whom the prescribed penalties may be imposed, and the circumstances in which and the authority to whom an appeal shall lie against the finding and penalty imposed and the procedure on the hearing and determination of appeals; provided that nothing in this Chapter or the regulations thereunder shall deprive any railway servant of a right of appeal against any finding or penalty to the General Manager, and from the General Manager to the Board.

Power to make regulations as to procedure and appeals in cases of misconduct.

### \*†CHAPTER III.

#### SUPERANNUATION FUND FOR NON-TRANSFERRED RAILWAY SERVANTS.

##### *Constitution of Fund.*

12. (1) A Fund to be known as "The Railway Superannuation Fund" shall be established and exist for the payment, subject to the provisions of this Act, of pensions—

Establishment of superannuation funds.

- (a) to officers and employees other than transferred servants and officers described in Chapter VI, already in or hereafter admitted to the Service or already in or hereafter entering Joint Service, who may under this Chapter become and continue contributors to the Fund; or  
(b) to their representatives at death.

‡ (2) The Fund shall be established as from a date to be notified by the Board in the *Gazette* and in the *Government Gazette* of the Orange River Colony.

(3) The Fund shall be formed and maintained by means of contributions by the members thereof and by the Administration in accordance with the provisions hereinafter contained.

13. (1) There shall be two divisions of the Fund according to the class of railway servants who are members thereof, namely,—

Division of Fund according to classes of contributors.

Division I.—For officers.

Division II.—For employees.

(2) Any member transferred from one division to the other shall rank for pension as if he had originally entered the division to which he is transferred.

14. The Board may from time to time determine the manner in which the Fund shall be administered and, if it thinks fit, constitute by regulation a Committee of Management consisting

Management of the Fund.

\* For superannuation regulations, see Govt. Notices Nos. 713 of 1909 (*Gazettes*, 25/6/09 and 9/7/09) (erratum), 1378 of 1909 (*Gazette*, 10/12/09).

† See Act No. 9 of 1910, sec. 1.

‡ The Fund was established from 1st January, 1909, by Govt. Notice No. 1244 of 1908 (*Gazette*, 18/12/08).

of representatives of the Administration and of the members, and may confer upon such committee such powers with regard to the investment of the balances of the Fund under the authority of the Board, claims made upon the Fund, and such other powers by this Chapter vested in the General Manager as it may think fit.

Amalgama-  
tion of Fund  
with other  
funds.

15. If the Administration shall agree with one or more of the British South African Railway Administrations that the Fund be amalgamated with the superannuation funds of such other Administration or converted into a joint fund for the staff of such administration or administrations as well as for the railway servants the Board may make arrangements with the governing body of any such other administration or administrations with regard to the control and management of the Fund, the apportionment of the liabilities of the governing bodies in any such joint fund in respect of interest, management, and other charges, and any other questions which may arise out of the amalgamation or conversion of the fund into a joint fund; provided that no such amalgamation or conversion shall be deemed to affect the provisions of this Chapter in respect of contributions to or pensions from the Fund.

#### *Membership of Fund.*

Membership  
of the Fund.

16. (1) Membership of the Fund shall be optional in the case of railway servants in the employment of the Administration on the fixed date and shall, save as is provided in sub-sections (4) and (5) of this section, be obligatory in the case of those admitted to permanent employment after that date; provided that—

- (a) unskilled labourers and such other railway servants (not being persons in permanent employment of the Administration) whom the Board shall decide not to admit as members;
- (b) temporary railway servants or railway servants described in sub-section (4) of section *four* or engaged for a fixed period of employment, unless subsequently taken into permanent employment;
- (c) female railway servants subject to the provisions of section *forty-five*;

shall not be eligible for membership of the Fund.

(2) Any railway servant whose membership of the Fund is under this section optional and who desires to become a member, shall give written notice to the General Manager of his intention within six months after the fixed date and shall thereupon become liable for the payment of contributions as provided in this Act. Unless he shall give such notice within such period he shall thereafter be ineligible for membership of the Fund.

(3) If a temporary railway servant or a railway servant described in sub-section (4) of section *four* be appointed to permanent employment he shall become a member of the Fund and shall be entitled to antedate his membership to the date of his first temporary appointment, which immediately precedes his appointment to permanent employment; provided that he pays contributions for the period of his temporary employment with compound interest thereon at the rate of four per cent. per annum, calculated quarterly.

(4) Any railway servant appointed to permanent employment after the fixed date, if his age on appointment to such employment was forty years or over, shall have the option of becoming a member of the Fund, but it shall not be obligatory upon him to do so.

(5) No railway servant in permanent employment at the fixed date or thereafter appointed to permanent employment, shall, if his age be fifty years or over, be permitted to become a member without the special sanction of the General Manager.

17. In the case of members who are transferred with the approval of the Board to or from the Joint Service the following provisions shall apply :—

(a) If the transfer be from the Service to Joint Service, the member transferred may remain a member subject to the provisions of sub-section (2) of section *nineteen*.

(b) If the transfer be from Joint Service to the Service, and a person transferred is a member of the Fund and is not a contributor to any other superannuation fund he shall, on such transfer, be treated as if he had been in the Service during the whole period of his membership.

(c) If a person in Joint Service is a contributor to a pension fund of another administration he shall, if he is transferred to the Service, be required to contribute to the Fund in accordance with this Chapter as and from the date of the transfer.

18. Subject to the provisions of section *forty-four* a member who, with the consent of the Board, is transferred to any railway or other service, whether British or foreign, shall not be allowed to continue his contributions to the Fund.

### Contributions.

19. (1) Every member shall contribute to the Fund, so long as he remains in the Service, at the rate of three per cent. per annum on his pensionable emoluments.

(2) In addition to the contribution at the rate provided in sub-section (1) a member transferred to the Joint Service shall be required as a condition of remaining a member of the Fund to make good thereto the contributions and interest (if any) which would otherwise be paid by the Administration to the Fund, on such proportion of his pensionable emoluments as may be chargeable against any other South African Railway Administration or any portion of such proportion which the other Administration shall not agree to contribute to the Fund.

(3) A member whose age on entering permanent employment was thirty years or over may, within six months after the date of his first contribution to the Fund, elect to make additional contributions at the rate of one-half per cent. or any multiple thereof of his pensionable emoluments; provided that the additional contributions shall not exceed two per cent. of such emoluments.

20. (1) In the case of all railway servants becoming members after the fixed date contributions to the Fund shall commence from the date of appointment to permanent employment; provided

Special provision for membership in case of persons transferred to or from Joint Service.

Special provision as to persons transferred to other services.

Rate of contributions by members.

When contributions commence.

that employment on probation may be reckoned in the period of membership if contributions are paid in respect thereof together with compound interest at four per cent. per annum calculated quarterly upon such contributions as are in arrear.

(2) A railway servant who, being in the Service at the fixed date, elects to become a member of the Fund, shall have the option of dating his contributions other than additional contributions from any date from and after his first appointment in the old Administration or the Service, up to and including the fixed date.

(3) Any person desiring to antedate his membership shall notify his intention to the General Manager within six months after the fixed date and indicate what period of his past continuous period of employment he desires to have reckoned for purposes of pension. The General Manager shall decide whether or not such period may be reckoned as continuous employment for pension purposes.

(4) Notwithstanding anything in this Act contained, if any railway servant (other than a transferred servant and an officer described in Chapter VI) who has before entering the Service relinquished employment with any other Administration or Government in South Africa, shall allege to the Board that owing to the circumstances of his case hardship would be caused if he were not allowed to treat such employment as continuous for pension purposes with his employment under the Administration and to contribute to the Fund in respect of it, the Board shall examine his claim, and shall decide whether to admit it, and if so, upon what terms.

Arrears of contributions and interest thereon.

21. (1) Whenever, under the last preceding section, membership of the Fund is antedated the member shall be required to pay arrear contributions at the rate of three per cent. on the pensionable emoluments drawn by him during the period to be covered, and the Administration shall pay on his behalf, in respect of the period before the fixed date, compound interest on such arrears at the rate of five per cent. per annum as from the date to which membership of the Fund has been antedated up to the fixed date. In respect of the period from the fixed date up to the date or dates when the payments on account of such arrears are actually made compound interest at the rate of four per cent. per annum calculated quarterly shall be paid by the member.

(2) Whenever under the last preceding section membership of the Fund is antedated the member, if he has elected to make additional contributions under sub-section (3) of section *nineteen*, shall be entitled to make such contributions in respect of his antedated membership for such period of his continuous pensionable employment after he was thirty years of age or more, as he may desire and as the General Manager may approve, but compound interest on such arrears as aforesaid, whether before or after the fixed date, shall be paid by the member and not by the Administration.

(3) Arrears of contributions and interest may be paid by such instalments as the Administration shall determine, but so that a member's total contributions other than additional contributions do not exceed six per cent. of a member's pensionable emoluments.

unless he so desires; and any instalments paid by a member shall be regarded as applying to the period immediately preceding the period for which contributions have been made by him to the Fund (as the case may be). Upon completing the payment of arrear instalments, as aforesaid, in respect of the pensionable emoluments of the respective years and months preceding his admission to membership, the member shall have a corresponding number of years and months added to his membership, but no such addition shall be made in respect of any period of less than one month; nor shall any person be entitled to any benefits from the Fund in respect of any period for which there has been no specific contribution by him or on his behalf. The cost of any additional benefits granted shall be met out of revenue.

(4) If the Board shall admit any such case as is referred to in sub-section (4) of section *twenty*, there shall be paid to the Fund by the railway servant arrear contributions at the rate of six per cent. per annum of his pensionable emoluments and by the Administration compound interest at the rate of five per cent. per annum in so far as the other Government or Administration previously employing him shall not agree to pay the whole or any part of such contributions and interest.

22. All contributions to the Fund (including arrear contributions and any additional contributions made under sub-section (3) of section *nineteen*) shall be made by deductions from the salary or wages (as the case may be) of the member or in such other manner as may be prescribed by the General Manager.

Contributions to be deducted from salaries or wages.

23. (1) The pensionable emoluments on which contributions to the Fund shall be paid shall be as follows:—

Pensionable emoluments on which contributions shall be made and shall not be made.

(a) Salary or wages.

(b) The estimated value of quarters, whether belonging to the Administration or not, whenever the member is allowed to occupy them free of rent, as a portion of his emoluments.

(c) Any allowance granted in lieu of the provision of free quarters.

(d) The assessed value of rations which form a portion of a member's emoluments.

Provided that in the case of an artisan or other member who by reason of the conditions of his employment draws consolidated wages, the Board may prescribe that for the purpose of calculating his pensionable emoluments such deduction shall be made from his consolidated wages (including remuneration for piece-work) as may be necessary to secure uniformity of treatment with other classes of employees.

(2) Contributions to the Fund shall not be payable on the following emoluments, nor shall such emoluments be taken into account in determining the pension payable to any member:—

(1) Payments for overtime (except overtime payments to drivers, firemen and guards who are employed on the trip system).

(2) Allowances of whatever character other than those specified in paragraphs (c) and (d) of sub-section (1).

(3) Fees, honoraria and bonuses of any kind.

Contributions  
of members  
on leave.

24. (1) A member shall continue to contribute to the Fund while on leave with full pay, and, if he is on half-pay leave, his contributions shall be payable on his full pensionable emoluments and not on the half-pay actually drawn. In respect of a period of leave without pay no contribution shall be made, and such period shall be excluded from his period of pensionable employment.

(2) A member shall continue to contribute to the Fund in the ordinary manner whilst absent on sick leave. If sick leave is granted with half or one-third ordinary pay (whether paid by the Administration or out of a sick or other fund to which the Administration contributes) contributions shall be payable on the full pensionable emoluments which would have been drawn if the member had not been on sick leave. The provisions of sub-section (1) shall apply *mutatis mutandis* in respect of contributions while on sick leave without pay.

Contributions  
by Adminis-  
tration.

25. The Administration as from the fixed date shall on the thirty-first day of March, thirtieth day of June, thirtieth day of September, and the thirty-first day of December of each year contribute and pay into the Fund a sum equal to the aggregate of the amounts, whether of principal or interest, which shall during the preceding quarter have been paid into the Fund by members or by the Administration under sub-section (1) of section *twenty-one* on behalf of members.

Investment of  
balance of  
Fund and  
payment of  
interest  
thereon.

26. (1) The Board may from time to time invest the moneys of the Fund in the public stock of The Transvaal or Orange River Colony, or stock guaranteed by The Transvaal or Orange River Colony or Imperial or any South African Government in Treasury Bills of the Government of The Transvaal or Orange River Colony, on first mortgage of immovable property not exceeding half the value of the property, in either such Colony or in the stock of any local authority therein which is authorised by law to issue stock or on a fixed deposit with any bank carrying on business in either Colony under the laws thereof and approved by the Governments of both Colonies.

(2) After the fixed date the revenue shall be charged with interest at four per cent. per annum on all moneys so invested; such interest shall be credited monthly to the Fund, and the income accruing from the investments shall be credited to revenue in so far as it does not exceed four per cent. per annum, calculated monthly, but so much of that income as exceeds that rate shall be credited to the Fund.

#### *Annuities.*

Annuities  
payable  
according to  
age.

27. Any annuity payable by the Fund under this Chapter shall be based on the average pensionable emoluments of each member for the whole period of his contributions, and shall vary according to the member's age, calculated as from his birthday nearest to the date from which he shall have made contributions. The tables set forth in the First Schedule to this Act and marked I and II shall be deemed to show in the case of officers and employees respectively the percentage of such average pensionable emoluments which shall be payable as an annuity in respect of each completed year of contribution; provided that no annuity

shall be granted out of the Fund to any person unless contributions have been made by him or on his behalf in respect of a period of ten years or more, and provided further that the member is in other respects qualified for an annuity under this Chapter.

28. A supplementary annuity from the Fund may be obtained by a member making the additional contributions mentioned in sub-section (3) of section *nineteen*. The tables set forth in the First Schedule to this Act and marked III and IV shall be deemed to show in the case of officers and employees respectively the supplementary annuity which may be secured by payment of contributions of an additional one per cent. on a member's pensionable emoluments, provided that no such supplementary annuity shall be granted out of the Fund to any person unless additional contributions have been made by him or on his behalf in respect of a period of ten years or more.

Additional annuity in respect of additional contribution.

29. (1) A member who has attained the age of sixty years and who shall have contributed to the Fund in respect of a period of at least ten years, shall have the right to retire on pension, or may be required by the Administration to retire on pension.

Ages and circumstances giving rise to retirement on pension.

(2) A member who for at least five years immediately preceding his retirement shall have continuously occupied the position of telegraphist, engine-driver, or fireman shall, on attaining the age of fifty years, and provided that he has contributed to the Fund in respect of a period of at least ten years, be entitled to retire on pension, or may be required by the Administration to retire on pension; but in calculating an annuity in any such case, a member's age at the date in respect of which his first contribution to the Fund has been paid shall be deemed to be increased by as many years beyond his actual age at that date as his age on retirement falls short of sixty years.

(3) A member who having contributed to the Fund in respect of a period of ten years or more, is compelled to retire from the Service by reason of severe bodily injury occasioned without his own default or permanent ill-health shall be entitled to receive, in respect of his completed years of membership, an annuity calculated as is provided in section *twenty-seven*, provided that in the case of permanent ill-health he produce a satisfactory certificate signed or countersigned by a railway medical officer or such medical practitioner or board as may be prescribed, that it has been occasioned without his own default; provided further that the General Manager or other authority acting on his behalf be satisfied on enquiry that the disablement is permanent, and is of such a nature as permanently to incapacitate the contributing member from performing duty.

### *Benefits other than Annuities.*

#### (A) ON LEAVING THE SERVICE.

30. If a member retires from the Service voluntarily before superannuation and not in order to avoid dismissal for fraud, dishonesty or misconduct, he shall be entitled to a return of the whole of his contributions, but without interest, and he shall have no further claim upon the Fund.

Voluntary retirement



Retirement on ill-health etc., before expiry of ten years from joining the Fund.

31. If a member is compelled, before having contributed to the Fund in respect of a period of ten years, to retire by reason of severe bodily injury occasioned without his own default or permanent ill-health, he shall be entitled to a return of all his contributions with compound interest at the rate of four per cent. per annum, provided that in the case of permanent ill-health he produces a satisfactory certificate signed or countersigned by a railway medical officer or such medical practitioner or board as may be prescribed certifying that it has been occasioned without his own default; provided further that the General Manager be satisfied on enquiry that the disablement is permanent and of such a nature as permanently to incapacitate the member from performing his duty. Such member shall have no further claim upon the Fund but the Board may grant him out of revenue such sum by way of gratuity as it may think fit.

Retirement due to inefficiency.

32. If a member is shown after enquiry, as provided in section *six*, to be inefficient from causes not solely within his own control, and on that ground is removed from the Service, there shall be paid over to the Administration from the Fund a sum equal to twice such member's contributions without interest, and thereafter such member shall have no further claim upon the Fund, and the Administration shall deal with him as provided in sub-section (3) of the said section.

Dismissal from Service.

33. (1) If a member is dismissed from the Service for misconduct or retires in order to avoid dismissal, or is ordered to resign, under the powers of section *ten* he shall forfeit the whole of his contributions and lose all benefits from the Fund; but the General Manager or other authority acting on his behalf may, in cases where the misconduct is not of a grave nature, authorise the payment to such member of the whole or any portion of his contributions to the Fund, and in cases of grave misconduct may authorise such grant as may be made under sub-section (2) of this section.

(2) If a member is dismissed from the Service for fraud or dishonesty, or retires in order to avoid dismissal or is ordered to retire under the powers of section *ten*, he shall forfeit the whole of his contributions and lose all benefits from the Fund; but the General Manager or other authority acting on his behalf may make to him or to his wife or children out of the Fund such grant as the General Manager or other authority thinks fit, not exceeding the one-half of his contributions without interest if he shall have been a member of the Fund for less than ten years or not exceeding the whole of his contributions without interest if he shall have been a member of the Fund for ten years or more.

Retirement for other causes.

34. If a member leaves the Service before superannuation in consequence of his services being discontinued by the Administration owing to a reduction in or reorganisation of staff and not for reasons of inefficiency, ill-health, misconduct, fraud, or dishonesty there shall be paid over to the Administration from the Fund a sum equal to twice the amount of the member's contributions without interest, and thereafter such member shall have no further claim on the Fund, and the Administration shall deal with him as provided in section *seven*.

35. A railway servant who under sub-section (5) of section *sixteen* has been permitted to become a member of the Fund, shall, if his employment is terminated on superannuation before he has been a member for ten years, be entitled to be refunded his contributions without interest.

Retirement of servants entering the Service when over fifty.

### (2) ON DEATH.

36. (1) If a member dies before superannuation from the effects of severe bodily injury, occasioned without his own default whilst in the discharge of his duties there shall be returned to his legal representative (subject to the conditions in section *thirty-eight* contained) a sum equal to twice the amount of his contributions with interest at the rate of four per cent. per annum.

Death before superannuation.

(2) If a member dies before superannuation from any other cause there shall be returned to his legal representative (subject to the conditions in section *thirty-eight* contained) a sum equal to twice the amount of his contributions without interest.

37. If a member dies after superannuation, there shall be returned to his legal representative (subject to the conditions in section *thirty-eight* contained) a sum equal to any difference that may remain between twice the amount of his contributions (exclusive of additional contributions) together with the actual amount of his additional contributions without interest and the aggregate of amounts which he has received by way of annuity.

Death after superannuation.

38. Notwithstanding anything in sections *thirty-six* and *thirty-seven* contained, twice the amount of the contributions of the deceased member shall be returned to his legal representative only when such member leaves—

Circumstances under which contributions payable to deceased's representatives.

(a) a widow or children (or step-children) or

(b) a father, mother, brothers or sisters dependent upon him, and not any collateral or more distant relative,

and in the following order of preference, namely:—

(i) the widow, or failing a widow,

(ii) the children or step-children; or failing children or step-children,

(iii) the father, mother, brothers or sisters.

In all other cases the deceased member's contributions only shall be paid to the legal representative.

### (3) General.

39. (1) The period of employment in respect of which a pension may be reckoned shall be continuous.

Continuity of employment for pension purposes.

(2) A continuous period of employment shall include the time spent by a railway servant:—

(a) on actual duty;

(b) on authorized leave of absence otherwise than without pay;

(c) under suspension followed by re-instatement in the same or another office or post;

(d) in transit from one appointment to another in the Service or to or from the Service when transferred under competent authority to or from the service of another administration or Government, or when seconded to the service of such other administration or Government for a period not exceeding one year.

(3) A continuous period of employment shall not be regarded as interrupted by authorized leave of absence without pay or by retirement followed by resumption of duty under section *eighty-five*, but the time spent on such leave or on such retirement shall not be reckoned for purposes of pension.

Pension not to be paid so long as office or post held.

40. No pension shall be granted to any member so long as he holds any office or post in the Service.

Provision in case member is re-employed.

41. If any member to whom an annuity is granted under this Chapter, either before or after superannuation, is thereafter employed in the Public Service of The Transvaal or of the Orange River Colony, or in the Service or Joint Service, such annuity shall cease to be paid for any period subsequent to such appointment if the amount of the emoluments thereby received by such member is equal to the pensionable emoluments of his former office or post at the time of his retirement from the Service, or if not, then the annuity shall be reduced until the amount thereof, *plus* the emoluments so received, shall become equivalent, to the pensionable emoluments of his former office or post. On the termination of such appointment the annuity granted prior thereto shall again become payable. If the appointment be with the Service or Joint Service the member shall be entitled to contribute to the Fund on the pensionable emoluments (including for the purpose the reduced annuity aforesaid) drawn by him during his second period of employment, and on his ultimate retirement shall be entitled to a further annuity in respect of such further period of employment, calculated in the same manner as if he had first entered the Service at the date of that appointment.

Method of calculating pensions.

42. Pensions under this Chapter shall be calculated by the year and by the month, but fractional parts of a month shall be disregarded.

Provision in case of persons transferred from other Services after fixed date.

43. (a) Any railway servant who shall after the fixed date have been transferred to the Service from the Service of any South African Government or of the Imperial Government or of any British Colony or possession, and who becomes a member of the Fund under this Chapter shall be entitled on his ultimate retirement to have his annuity calculated upon the whole period of his continuous employment under the Imperial or other Government and that under the Administration; provided that the Imperial or other Government is prepared to contribute to the annuity thus calculated an amount based on his period of employment under such Government in accordance with any regulation which may be in force in the transferring Service at the time of the transfer. Any liability thereby imposed on the Fund over and above the liability in respect of the member's actual period of membership shall be met out of revenue.

(b) If the Imperial or other Government is prepared so to contribute but on a period shorter than the whole period of the person's employment under that Government, such shorter period shall in that case be taken to be for pension purposes the member's period of employment under that Government.

(c) If the Imperial or other Government is not prepared to make any contribution to the pension of a servant transferred as

aforesaid, any pension which may under this Chapter be granted to such member shall be based solely on his period of employment under the Administration.

44. When, after the fixed date, a member is, with the consent of the Administration, transferred to the service of any South African Government, or Administration, or the Imperial Government, or any British Colony or possession the following provisions shall apply :—

(a) If the member's period of membership is less than ten years, his contributions shall be returned to him without interest and he shall have no further claim upon the Fund.

(b) If the member's period of membership is ten years or more and if the Government to whose service he is transferred agrees to include his period of pensionable employment with the Administration in calculating his pension on his ultimate retirement, his contributions (exclusive of any additional contributions which shall be refunded to him without interest) may be retained in the Fund and, on his reaching the age of superannuation applicable to him if he had remained in the Service, or on his ultimate retirement (whichever event is the later) the Fund shall contribute towards any pension granted by such Government an annuity calculated in accordance with this Chapter but based on his actual period of pensionable employment under the Administration. If he leaves the employment of such Government for any other cause his contributions shall be returned to him. If he dies, they shall be returned to his legal representative. In the absence of any such agreement or if the member so desires, he shall be treated in all respects as if he had voluntarily retired from the Service.

Provision in case of persons transferred to service of another Government after fixed date.

\*45. If it is decided at any date hereafter to admit females as members of the Fund (which the Board is hereby authorized to do) it may make such special rules and provide such scales of contributions and pensions as may be necessary, provided that any such scales shall be approved by an actuary before adoption.

Admission of females to the Fund.

#### (4) *Financial.*

46. (1) The Chief Accountant of the Administration shall cause full and true accounts to be kept showing separately for each division of the Fund—

Accounts of the Fund.

(a) all sums of money received or due and disbursed or payable in respect of members and particulars of the matters and things for which such sums of money have been received or disbursed ;

(b) the time of commencement of membership and amounts and dates of payment of all contributions together with all chronological and other particulars necessary to admit of proper accounts of the divisions of the Fund being kept in accordance with this Chapter and the regulations and to admit of an actuarial valuation of the Fund to be made at any time ;

\* See Govt. Notice No. 1378 of 1909 (*Gazette*, 10/12/09).

- (c) all sums of money due to or from other administrations in respect of Joint Service pensions or other pensions partly payable by another administration or Government ;
- (d) all amounts due to or from the Administration in connection with the Fund ;
- (e) all other matters provided for or contemplated in this Chapter and the regulations.

For the purpose of such accounts, when a member is transferred from one division of the Fund to the other, twice the amount of his contributions accumulated at five per cent. compound interest shall be transferred from the one division to the other and thereafter any contributions shall be paid into the other division.

(2) The Chief Accountant shall cause the books and accounts of the Fund to be balanced up to the thirtieth day of June in every year and a balance-sheet to be made up showing the assets and liabilities of the Fund at the date when such balance-sheet is framed.

(3) The balance-sheet shall be signed by the Chief Accountant, and audited and thereafter countersigned by the person auditing the railway accounts and shall be distributed among all the members.

Quinquennial  
valuation of  
Fund.

47. (1) The Fund shall be valued and reported upon as at the thirtieth day of June next succeeding the expiry of five years from the fixed date and at the expiry of every further period of five years by an actuary appointed by the Board. The actuary shall report direct to the Board, and in his report shall indicate such changes (if any) as are necessary to maintain the Fund in a sound financial position.

(2) If the actuary's valuation shall disclose a surplus beyond the requirements likely to arise under this Chapter or any amendment thereof or regulations made thereunder the benefits shall be increased or the contributions shall be reduced in such manner as the Board and four-fifths of the members shall agree ; but if his valuation shall disclose a deficiency, such deficiency shall be met, if necessary, in such fair and equitable manner as may appear to the Board to be reasonable; but no person to whom a pension has been granted shall have the same reduced, or be called upon to refund any amount already received.

(3) The wishes of all the members shall be ascertained by ballot in such manner as the Board may determine, before any change is made in the scales of pensions or rates of contribution, or whenever any question arises in connection with the Fund which is, in the opinion of the Board, of sufficient importance to justify such action being taken.

Cost of  
administra-  
tion of Fund  
to be borne by  
revenue.

48. The business of the Fund shall be conducted by means of the staff of the Administration and the cost of administering the Fund and of any actuarial investigations and matters incidental thereto shall be borne by the Administration out of revenue.

## CHAPTER IV.

## PENSIONS OF TRANSFERRED SERVANTS.

49. (1) Any railway servant who was a contributor to a pension fund while in employment under the Cape Civil Service, the Cape Government Railways, the Cape Colony Harbour Boards or the Orange Free State Railways and was transferred under competent authority to the old Administration shall be entitled to reckon the whole of his employment with any such service, board, or railways, and with the old Administration and with the Administration as continuous for purposes of pension and widow's pension and shall enjoy the pension rights defined in this Chapter, provided the Government of Cape Colony agrees to bear such proportion of the pension ultimately payable as was earned by such servant while in such employment according to Regulation *six*, Section III, Chapter G, of the Cape Civil Service Regulations set forth in the Second Schedule to this Act.

Description of transferred servants and manner of determining claim to be so.

(2) The Board or other authority acting on its behalf shall examine the claim of any applicant to be treated as a transferred servant, shall thereafter prepare a list of transferred servants and give written notice to every railway servant who is included in it, that he is entitled to the rights conferred by this Chapter on compliance with its conditions and is subject to all its obligations.

50. Contributions as hereinafter provided shall be collected from each transferred servant from the date of the cessation of his contribution to the Cape Civil Service Pension Fund or the Orange Free State Pension Fund (as the case may be); provided that, in the case of a transferred servant who left the Orange Free State Railways during the hostilities between the Imperial Government and the Government of the Orange Free State and was afterwards employed by the Imperial Military Railways, no contributions shall be collected for the period from the date of his leaving the Orange Free State Railways to the date of his joining the Imperial Military Railways but such period shall nevertheless be reckoned as employment for pension.

Contributions by transferred servants.

51. (1) Every transferred servant shall contribute in respect of pension at the rate of three per cent. per annum of his pensionable emoluments and the contributions shall be collected monthly by deduction from such emoluments; provided that, in the case of fees receivable by a servant which cannot be definitely ascertained, the deduction shall be made upon the average net amount of such fees received annually during the three years immediately preceding.

Rate of contributions.

(2) In any case in which the pensionable emoluments vary from month to month the monthly contribution to be made by the servant shall be calculated on one-twelfth of that sum which in the opinion of the Board, would fairly represent the amount of his pensionable emoluments for a whole year.

52. (1) If any transferred servant die while in the Service before his retirement on superannuation, leaving a widow or one or more minor children, it shall be lawful for the Board to grant to such widow or minor children an amount equal to the total contributions of such servant under this Chapter.

Benefits to widow and children.

(2) If any transferred servant to whom any pension has been granted on his retirement, dies, leaving a widow or a minor child or minor children, before the aggregate amount paid or payable to him as pension has become equal to the total amount contributed by him, it shall be lawful for the Board to grant to such widow or minor child or children an amount equal to the excess of such total contributions over the total amount paid or payable to him, as pension, up to the date of his death.

Age of super-annuation.

53. (1) A transferred servant who is a telegraphist, driver, fireman, guard, or shunter and who shall have attained the age of fifty, may be required to retire on superannuation.

(2) Any other transferred servant may be required to retire on superannuation as soon as he shall have attained the age of sixty.

(3) Save as is in this Chapter hereinafter provided, no pension shall be granted to any transferred servant under the age of sixty or, in the case of telegraphists, engine-drivers, firemen, guards, and shunters under the age of fifty, unless it appears from such medical certificate as the Board may prescribe that he is incapable from infirmity of body or mind of discharging the duties of his office and that such infirmity is likely to be permanent.

Persons to whom pensions shall not be paid.

54. (1) No transferred servant who is dismissed for fraud or misconduct, or who voluntarily retires from the Service on grounds other than those set forth in sub-section (3) of section *fifty-three* shall be entitled to a pension.

(2) Save as in this Chapter is excepted no pension may be granted to any transferred servant who is not required to give his whole time to the Service.

Scale of pension.

55. Subject to the provisions of this Chapter the pension which may be granted to any transferred servant shall be as follows—

(a) to a servant whose period of employment for pension purposes is less than ten years, a gratuity not exceeding the amount arrived at by allowing one month's pensionable emoluments for each completed year of employment ;

(b) to a servant whose period of employment for pension purposes is ten years, an annuity of ten-sixtieths of such emoluments ; and in like manner a further addition to the annuity at the rate of one-sixtieth in respect of each additional year of employment until the completion of a period of employment of forty years, when an annuity of forty-sixtieths may be granted ; no addition shall be made in respect of any period of employment over forty years.

Retirement owing to injury or permanent ill-health.

56. (1) A transferred servant who is compelled before his period of employment is ten years, to leave the Service by reason of severe bodily injury or permanent ill-health occasioned without his own default while engaged in the discharge of his official duties, may be granted a gratuity not exceeding the amount arrived at by allowing three months' pensionable emoluments for every year of pensionable employment or an annuity not exceeding ten-sixtieths of such emoluments.

(2) Any transferred servant, who is compelled from permanent infirmity of mind or body to leave the Service before his

period of employment is ten years, may be granted such gratuity as the Board may think proper, but not exceeding an amount arrived at by allowing one month's pensionable emoluments for each year of pensionable employment.

57. If any transferred servant die from bodily injury, occasioned without his own default, while engaged in the discharge of his official duties it shall be lawful for the Board to grant to the widow or children of such person, or, if dependent on him for their maintenance, to his parents, or brother, or sister, a gratuity not exceeding an amount arrived at by allowing one month's pensionable emoluments for each year of pensionable employment; provided that if such gratuity appear to the Board to be inadequate to meet the circumstances of any particular case it may grant a gratuity not exceeding one year's pensionable emoluments.

Gratuity to widow or dependents of deceased servant killed in discharge of duty.

58. (1) It shall be lawful for the Board to grant, by way of compensation for loss of office or post, to any transferred servant retiring or removed from the Service in consequence of the abolition of such office or post, such special annuity (not exceeding two-thirds of his pensionable emoluments) as on a full consideration of the circumstances of the case the Board may think just and reasonable; provided that such annuity shall not exceed the amount which might be granted if one-third of the period of pensionable employment were added thereto; provided further that the number of years to be added shall in no case exceed such number as would, if added to the actual age of the person retiring or removed, amount to sixty-five years.

Compensation for abolition of office, etc.

(2) If any transferred servant be found to be unfit from physical or any other causes to discharge efficiently the duties of the particular office or post which he is filling, or if it should be found necessary to remove any such servant in order to facilitate improvements in the organization of the department to which he belongs by which greater efficiency and economy can be effected, it shall be lawful for the Board to, if such servant's period of pensionable employment is ten years or more, place him on temporary pension pending the occurrence of a suitable vacancy, on the same scale as in section *fifty-five* is provided for servants with that period of pensionable employment, or if his period of employment is less than ten years, may dispense with his services upon the payment of a gratuity of one month's pensionable emoluments for each year of employment; provided that whenever such temporary pension has been continued for a period of five years, no such transferred servant shall be recalled to duty.

59. (1) If a transferred servant who has been granted an annuity in consequence of his having retired from the Service on the ground of age, infirmity, or other cause, or who has been granted compensation for past service in consequence of a reorganization or reduction of establishment, be appointed to fill any office or post in the Service or a public office elsewhere, of which the whole or any part of the emoluments is payable out of the Imperial revenue, or the revenue of The Transvaal, or of the Orange River Colony, or of any other Colonial Government, or of any Harbour Board of the Cape Colony, such annuity shall cease to be paid for any period subsequent to such appointment if

Pension in case of transferred servants being reappointed after retirement.



the annual amount of such emoluments be equal to those of the office or post formerly held by him in the Service, and if the emoluments be not equal to those of such office or post, then only so much of the annuity shall be continued as would, with the emoluments of his new appointment, be equal to the emoluments drawn by him in such office or post.

(2) Any transferred servant who has been reappointed to an office or post in the Service as mentioned in sub-section (1), may, on his ultimate retirement, be granted an annuity not exceeding forty-sixtieths of his pensionable emoluments based on such periods of actual employment before and after his temporary retirement, precisely as if such periods had been continuous employment; provided that if such annuity, so calculated, be less than that granted to him on his temporary retirement, he shall be entitled to receive his former annuity and in such case he shall also be entitled to a refund of the contributions (if any) in respect of pension made after the date of such temporary retirement.

Increases of pensions for special reasons.

60. It shall be lawful for the Board, with the assent of the Governments of The Transvaal and of the Orange River Colony, to grant to a transferred servant an annuity or a gratuity of greater amount than the amount which might be awarded to him under any preceding section of this Chapter when special services rendered by such person and requiring special reward shall appear to it to justify such increase, but no such increased annuity shall exceed the emoluments drawn by such person at the time of his retirement.

Computation of annuity.

61. An annuity which may be granted to any transferred servant under this Chapter shall not be computed upon the amount of the pensionable emoluments drawn by him at the time of his retirement unless he shall have been in the receipt of the same for a period of at least three years immediately before the grant of such annuity; and if he has not been drawing those emoluments for that period such allowance shall be calculated upon the average amount of pensionable emoluments received by him from time to time during the three years immediately preceding the commencement of such annuity; provided that in the case of an employee the annuity may, if he so desires, be calculated upon the average amount of emoluments received by him either for the three years immediately preceding his retirement or for the entire period of his employment.

Absence on leave—effect on pension and contribution.

62. (1) Any period of absence on leave with pay shall be regarded as part of the period of pensionable employment and during such absence the transferred servant shall be deemed to have drawn his full emoluments for the purpose of calculating an annuity and shall be liable to make full contributions.

(2) Any period of absence on leave without pay shall not be a period of pensionable employment but no such absence shall break the continuity of employment.

Employment to be continuous.

63. Employment in respect of which a pension may be granted shall be continuous, and shall not be deemed to be interrupted by temporary absence owing to reorganization or reduction of establishment, leave of absence, or other temporary suspension of employment not arising from misconduct or voluntary resignation.

64. (1) In computing the amount of any pension, the term "pensionable emoluments" shall be taken to include in addition to salary or wages (as the case may be)—

What are emoluments for purposes of pension.

(a) house rent or house allowance or the annual value of quarters in any buildings which the servant may be allowed to occupy belonging to or hired by the Administration, to an extent not exceeding one-sixth of the average emoluments of the office during the three years immediately preceding retirement;

(b) the net amount of fees to an extent not exceeding one-fourth of such emoluments;

(c) the allowed value of rations;

(d) any other unquestionable remuneration for personal service;

but "pensionable emoluments" shall not include local allowances contingent on high cost of living in certain localities or allowance for horse-keep, or locomotion, or stationery, or any other allowance contingent on the particular nature and actual transaction of the business of the office or post and presumably spent in the discharge of such business; provided that the nett amount of fees shall be obtained by deducting from the average gross amount of fees received during the three years immediately preceding retirement the average office expenses (if any) which during such three years were payable by the servant himself.

(2) In computing the amount of any pension no fractional part of a month and no increase of emoluments granted after the date of the notice of retirement shall be taken into consideration.

65. Unless the Board deem it necessary in the public interest or just on the ground of good service and special infirmity, no pension shall be granted to a transferred servant holding more than one office or post until he shall retire from all the offices or posts held by him.

Pensions to be paid on retirement from all offices.

66. Save as in this Chapter is otherwise provided every pension shall be calculated according to the actual period of employment of such person, and no addition shall under any circumstances be made to such period for the purpose of calculating the amount of such pension.

Pensions to be calculated on actual period of employment.

67. All pensions payable under this Chapter shall be paid out of revenue and all contributions in respect of such pensions shall be paid into revenue.

Pensions to transferred servants to be paid out of revenue.

## CHAPTER V.

### PENSIONS TO WIDOWS OF TRANSFERRED SERVANTS.

68. (1) The provisions of this Chapter shall not be in operation if any arrangement be entered into by the Administration with the Government of Cape Colony, and so long as such arrangement continues, whereby the contributions made, in respect of widows' pensions, by transferred servants since the date of their transfer to the service shall, together with further contributions in respect of widows' pension, be paid by each servant to the Widows' Pension Fund mentioned in Act No. 32 of 1895 of Cape Colony, and whereby the widows of such transferred servants shall be paid

Provisions of this Chapter not to be in operation if and so long as an arrangement subsists between the Board and the Government of the Cape Colony providing for

continuation of widows' pension contributions to widows' pension fund of that Colony.

Contribution in respect of widow's pension.

Conditions of special contributions to widow's pension to secure more than ordinary benefits.

Amount of widow's pension.

out of such Widows' Pension Fund pensions on the scale and in accordance with the provisions and conditions set forth in that portion of the said Act dealing with widows' pensions.

(2) If no such arrangement be entered into as aforesaid or, if entered into, shall terminate, then the provisions of this Chapter shall come into operation.

69. (1) Every transferred servant shall, provided his salary, in the case of an officer, or wages, in the case of an employee, exclusive of other emoluments, amount to at least one hundred pounds per annum, be required to make contribution at the rate of one per cent. per annum on his pensionable emoluments to provide for a pension to his widow.

(2) Such contribution shall be made upon the same emoluments and be collected in the same manner as is hereinbefore provided in Chapter IV in respect of the contributions to such servant's own pension; provided that if at the contributor's death there is any amount to become due to complete the contributions of a year (dating from the time the contributions were first made), the amount shall be deducted from the first payment of pension due to the widow.

(3) Such contribution shall be continued at the rate of one per cent. per annum by every person who has, under Chapter IV, retired upon an annuity but on the amount of his emoluments at the date of retirement; provided that, if such annuity be less than one hundred pounds per annum, he may, with the approval of the Board, be permitted to contribute to widow's pension at the rate of one per cent. per annum on the amount of that annuity only.

70. (1) Any transferred servant may at any time before his retirement on pension make application to the Board to be permitted to contribute at a higher rate than one per cent. in order to secure for his widow a pension greater than a contribution of one per cent. would secure, and shall, with such application, transmit a certificate of a medical practitioner as to the state of his health. If upon consideration of the application and certificate the Board is satisfied that the applicant's health is sound it may grant the application.

(2) If upon consideration of the application the Board is not so satisfied it may either refuse the application altogether or require that such larger contribution as may be agreed upon between the Board and the servant be made from his emoluments or from his pension than would be required if he were in sound health, and in default of agreement as to the amount of the larger contribution the application shall be refused. If the amount be agreed upon, the application shall be granted.

71. There shall be paid to the widow of every transferred servant a pension calculated on his actual contributions in accordance with such tables approved by an actuary as the Board may direct to be used for the purpose and further in accordance with regulation; provided that, in cases in which the contributions have not greatly varied for any particular number of consecutive years, the calculation may be made as if the servant had actually

contributed during those years at the average rate of contribution for those years; provided further that no widow's pension shall exceed one-third of the servant's salary or wages (as the case may be) during the year immediately preceding his retirement from the Service or death (as the case may be) or in any case the sum of two hundred and fifty pounds per annum.

72. If any transferred servant retire from the Service on a gratuity, the surrender value computed by an actuary of his contributions in respect of widow's pension may be refunded to him.

Refund of value of contributions to transferred servant retiring on a gratuity.

73. (1) If a widow's pension does not exceed the sum of ten pounds per annum, the Board may before the first payment of such pension commute the same by the payment of a capital sum of money calculated according to the estimated duration of the life of the widow.

Commutation of widow's pension.

(2) In calculating the amount payable as commuted widow's pension the following rules shall be observed:—

(a) The age of the widow shall be reckoned as her age on her next birthday.

(b) Interest shall be calculated at the rate of three per cent. per annum.

(c) The duration of her life shall be calculated according to tables approved by the Board and an actuary.

74. All pensions payable under this Chapter shall be paid out of revenue and all contributions in respect of such pensions shall be paid into revenue.

Widow's pensions payable out of revenue.

## CHAPTER VI.

### SPECIAL PENSION PROVISIONS APPLICABLE TO CERTAIN OFFICERS.

75. (1) There shall be paid out of revenue to—

(a) the officer who immediately prior to the second day of June, 1908, was Auditor to the Inter-Colonial Council which terminated on that day; and

(b) the officer who immediately prior to that day was Statistician to the old Administration;

on the retirement for any cause of each such officer from the Service a pension on the same scale and under the same conditions as would have been paid to him in such several circumstances if he had remained in the Civil Service of the United Kingdom but had been drawing on retirement therefrom annual emoluments equal in amount to those actually drawn by him on retirement from the Service; provided that he shall be entitled to reckon, for purposes of pension, as portion of his period of employment in the Service any continuous period of employment in the said Civil Service together with any continuous period of employment under the said Council or the old Administration or in the public service of The Transvaal.

Auditor of Inter-Colonial Council and Statistician of old Administration to be pensioned on same scale under same conditions as if they had remained in Civil Service of United Kingdom.

(2) The Board shall take all steps (in accordance with regulation) necessary for the recovery from the Imperial Government and from the Government of The Transvaal of any sums which should be contributed by either such Government towards the pensions mentioned in this section and shall pay such sums, when recovered, into revenue.

## CHAPTER VII.

### GENERAL AND MISCELLANEOUS.

Power of Board to make regulations.

76. (1) The Board may from time to time make, alter, or rescind regulations not inconsistent with this Act with respect to all or any of the following matters :—

- (a) The admission, appointment, period of probation, classification, grading, pay, promotion, transfer, discipline, hours of work, leave of absence of railway servants, and the conditions of employment in the several departments, offices, or branches of the Service ;
- (b) the offices and posts in the Service which may be filled by temporary railway servants ;
- (c) the scales of overtime payment and of local, travelling, climatic, and other allowances to railway servants ;
- (d) the security to be given by railway servants and the form and amount thereof ;
- (e) privileges which may be granted to railway servants ;
- (f) the mode of administering the Fund and the form and manner in which the accounts thereof shall be kept ;
- (g) the manner in which contributions shall be made to the Fund by its members ;
- (h) the method of calculating antedated contributions to the Fund and the arrear instalments thereof ;
- (i) the classes of railway servants (other than those in permanent employment) who shall not be eligible for membership of the Fund ;
- (j) the method to be adopted in calculating the value of free quarters, rations, or other allowances for the purpose of determining pensionable emoluments ;
- (k) the forms and period of notice to be given by members of the Fund and transferred railway servants respectively, who are entitled to or claim pensions ;
- (l) the mode of payment of contributions and pensions ;
- (m) the establishment of a medical board to examine and report upon any cases in which a medical certificate is under this Act required, the form and conditions of medical certificates and the procedure to be observed by railway servants in furnishing the same, in the several circumstances in which they are required ;
- (n) the methods of calculating the proportions of pensions to be recovered from the Imperial Government or the Government of any British Possession whenever in the several circumstances described in this Act a railway servant has been or shall be transferred to the Service from pensionable employment under such Government ;

(o) the methods of calculating the proportion of the contributions to be made by the Fund or the Administration (as the case may be) when a railway servant in the several circumstances described in this Act is transferred from the Service to pensionable employment under another Government ;

(p) generally for the better carrying out of the objects and purposes of this Act.

(2) Every such regulation shall be of force and effect notwithstanding that it has not been published in the Gazette, provided that the railway servant to whom it applies shall have received notice of its terms.

(3) The General Manager shall give notice of any such regulation by circular and notice shall be deemed to have been given to a railway servant when the circular has been received by the head of his office. It shall be the duty of every head of an office to give every railway servant an opportunity of obtaining a copy of any such circular and of inspecting at all reasonable times a copy of the regulations affecting him.

77. The Service shall for the purpose of section *thirty-three* of the Workmen's Compensation Act 1907 be deemed to be the public service in such section mentioned.

Service to be public service for purposes of section *thirty-three* of Act No. 36 of 1907.

78. Notwithstanding anything in this Act contained

(1) the staff employed in the office of the Secretary to the Railway Board shall in respect of all matters arising out of this Act be under the authority only of the Board ;

Special provision as to staff of Railway Board and Auditor.

(2) the Auditor for the railways and the staff employed in his office shall, subject to article *fourteen* of the Convention set forth in the First Schedule of the Inter-Colonial Conventions Ratiications Act 1908, be under the authority only of the Board.

79. A pension or any balance thereof may, if the Board so determine, be withdrawn or recovered at any time after the grant, if it be satisfied that during employment in the Service the person, to whom the grant was made, was guilty of any misconduct which, if known, would have merited dismissal on the ground of fraud or dishonesty, or if such person shall refuse or neglect to comply with a reasonable request to perform some special duty, or to supply some special information in connection with the affairs of any former office or post held by him.

Circumstances under which pension, etc., may be withdrawn.

80. No pension or right to a pension shall be capable of being assigned, transferred, mortgaged or otherwise ceded, pledged or hypothecated, nor shall the same be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, and in the event of the beneficiary attempting to assign, transfer, mortgage, or otherwise cede or hypothecate such pension or right, payment of the same may be withheld, suspended or entirely discontinued if the Board so determine.

Pensions, etc., not assignable or executable.

81. (1) If any person in receipt of an annuity becomes insolvent such annuity shall forthwith determine ; provided that

Pension to cease on insolvency.

in any such case the Board may order that all or any part of the annuity be paid to or for the benefit of all or any of the following persons, namely, such insolvent, his wife or any minor children, or, failing a wife or minor children, to any children or relatives dependent on him for maintenance.

(2) Whenever an annuity has determined under this section, the Board may order that it shall be revived on rehabilitation of the insolvent, and that he shall receive an annuity at the same rate, and under the same conditions as before insolvency.

Pension to  
cease on  
conviction.

82. If any person in receipt of an annuity be convicted before any court in His Majesty's dominions of any crime or offence and be sentenced therefor to death, or to any term of imprisonment with hard labour exceeding twelve months, and shall not within two months thereafter receive His Majesty's free pardon, such annuity shall forthwith determine; provided that the Board may, if it thinks fit, order that such annuity shall be revived if such person at any time after the conviction or sentence receive His Majesty's free pardon; provided further that the Board may, if it think fit, authorize the payment to or for the benefit of such person's wife or minor children, or failing a wife or minor children, to any children or relatives dependent on him, of such portion of the annuity as it may consider necessary for her or their maintenance.

Commutation  
of small  
annuities.

83. Save as is otherwise provided in section *seventy-three* if an annuity not exceeding twenty-five pounds is granted the Board may, at the request of the recipient, and before the first payment thereof has been made, commute such annuity by a single cash payment calculated actuarially according to the period for which the recipient may be expected to draw the annuity.

Diminution of  
pension in  
case of  
unsatisfactory  
service.

84. Whenever the Board is satisfied, after enquiry, that a railway servant has not rendered satisfactory service it may order that a pension less than is ordinarily payable to him in accordance with this Act be paid to him; provided that such railway servant shall not receive owing to the exercise of the powers of this section, in the case of an annuity, less than the annual value calculated actuarially of any sum contributed by him, or in the case of a gratuity, less than any actual sum contributed by him under this Act.

Recall to duty  
after pension.

85. Any railway servant to whom an annuity has been granted before he has attained the age of sixty years or, in the case of an engine-driver, fireman, or telegraphist, the age of fifty years, shall, until he has attained the age of sixty or fifty years (as the case may be), be liable to be called upon to resume his duties in his former office or post or to fill any office or post of a rank equal to or higher than that previously held by him; and if, being in a competent state of health, he shall decline or neglect, when called upon to do so, to resume or fill such office or post or to execute the duties thereof satisfactorily, he shall forfeit his right to the annuity granted to him; provided that if such annuity has been continued for a period of five years, no such officer shall be recalled to duty.

86. A period of employment of any railway servant—  
 (a) under the old Administration; or  
 (b) in the South African Constabulary; or  
 (c) in the Railway Police of the Transvaal or the Orange River Colony; or  
 (d) in any department administered by or on the advice of the Inter-Colonial Council; or  
 (e) in the public service of the Transvaal or Orange River Colony; or  
 (f) in any other service specially admitted by the Board under the provisions of sub-section (4) of section *twenty*;

Continuity of employment under old Administration or Inter-Colonial Council for purposes of pension.

shall, if the employment shall not have been interrupted, be deemed when calculating his pension to be one continuous period of employment in the Service.

\*87. This Act may be cited for all purposes as the Railway Service and Pension Act 1908 and shall not come into operation unless and until the Governor shall have declared by proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the Act and thereafter it shall come into operation on such date as the Governor may by like proclamation declare.

Title and date of operation of Act.

#### FIRST SCHEDULE.

TABLE I.—APPLICABLE TO OFFICERS.

Table showing the percentage of average pensionable emoluments payable as years to members of the Superannuation Fund in respect of each completed year of contribution.

Age at birthday nearest to date from which contributions paid.	Pensions for each completed year of contribution.
20 and under .. .. .	2·00 of average pensionable emoluments.
21 .. .. .	1·97 .. .. .
22 .. .. .	1·92 .. .. .
23 .. .. .	1·87 .. .. .
24 .. .. .	1·82 .. .. .
25 .. .. .	1·77 .. .. .
26 .. .. .	1·72 .. .. .
27 .. .. .	1·67 .. .. .
28 .. .. .	1·62 .. .. .
29 .. .. .	1·57 .. .. .
30 .. .. .	1·53 .. .. .
31 .. .. .	1·49 .. .. .
32 .. .. .	1·45 .. .. .
33 .. .. .	1·41 .. .. .
34 .. .. .	1·38 .. .. .
35 .. .. .	1·34 .. .. .
36 .. .. .	1·31 .. .. .
37 .. .. .	1·28 .. .. .
38 .. .. .	1·25 .. .. .
39 .. .. .	1·23 .. .. .
40 .. .. .	1·20 .. .. .
41 .. .. .	1·18 .. .. .
42 .. .. .	1·15 .. .. .
43 .. .. .	1·13 .. .. .
44 .. .. .	1·11 .. .. .
45 and over .. .. .	1·09 .. .. .

\* For Royal Assent and date of operation (1st January, 1909), see Proc. (Admn). No. 110 of 1908.



TABLE II.—APPLICABLE TO EMPLOYEES.

Table showing the percentage of average pensionable emoluments payable as pension to members of the Superannuation Fund in respect of each completed year of contribution.

Age at birthday nearest to date from which contributions paid.	Pensions for each completed year of contribution.
24 and under .. .. .	2·00 of average pensionable emoluments.
25 .. .. .	1·94 " " "
26 .. .. .	1·87 " " "
27 .. .. .	1·80 " " "
28 .. .. .	1·74 " " "
29 .. .. .	1·68 " " "
30 .. .. .	1·62 " " "
31 .. .. .	1·56 " " "
32 .. .. .	1·51 " " "
33 .. .. .	1·46 " " "
34 .. .. .	1·42 " " "
35 .. .. .	1·38 " " "
36 .. .. .	1·34 " " "
37 .. .. .	1·30 " " "
38 .. .. .	1·27 " " "
39 .. .. .	1·24 " " "
40 .. .. .	1·21 " " "
41 .. .. .	1·19 " " "
42 .. .. .	1·16 " " "
43 .. .. .	1·14 " " "
44 .. .. .	1·11 " " "
45 and over .. .. .	1·09 " " "

TABLE III.—APPLICABLE TO OFFICERS.

Table showing the percentage of average pensionable emoluments payable as pension to members of the Superannuation Fund in respect of each completed year of contribution under this table for each additional contribution of one per cent.

Age at birthday nearest to date from which contributions paid.	Supplementary pensions for each completed year of contribution under this Table.
30 .. .. .	·51 of average pensionable emoluments.
31 .. .. .	·50 " " "
32 .. .. .	·48 " " "
33 .. .. .	·48 " " "
34 .. .. .	·46 " " "
35 .. .. .	·46 " " "
36 .. .. .	·44 " " "
37 .. .. .	·44 " " "
38 .. .. .	·42 " " "
39 .. .. .	·41 " " "
40 .. .. .	·41 " " "
41 .. .. .	·39 " " "
42 .. .. .	·39 " " "
43 .. .. .	·38 " " "
44 .. .. .	·36 " " "
45 and over .. .. .	·36 " " "

TABLE IV.—APPLICABLE TO EMPLOYEES.

Table showing the percentage of average pensionable emoluments payable as pension to members of the Superannuation Fund in respect of each completed year of contribution under this table for each additional contribution of one per cent.

Age at birthday nearest to date from which contributions paid.	Supplementary pensions for each completed year of contribution under this Table.
30 .. .. .	·54 of average pensionable emoluments.
31 .. .. .	·52 " " "
32 .. .. .	·50 " " "
33 .. .. .	·50 " " "
34 .. .. .	·48 " " "
35 .. .. .	·46 " " "
36 .. .. .	·45 " " "
37 .. .. .	·44 " " "
38 .. .. .	·43 " " "
39 .. .. .	·41 " " "
40 .. .. .	·41 " " "
41 .. .. .	·39 " " "
42 .. .. .	·39 " " "
43 .. .. .	·38 " " "
44 .. .. .	·36 " " "
45 and over .. .. .	·36 " " "

*Repealed 28/12*

## SECOND SCHEDULE.

## REGULATION Six, SECTION III, CHAPTER G, OF THE CAPE CIVIL SERVICE REGULATIONS.

## III.—Officers taken from the Service of this Colony into the Imperial or other Service.

6. Whensoever in the case of an officer who has been taken, without a break, from the service of this Colony into the Imperial or other Service, the Imperial or other Government is prepared to grant him on his retirement, under such rules as may in that respect be in force at the time in the United Kingdom, or rules similar thereto, a pension based on his period of service under both Governments capable of being counted for pension purposes, the Governor may sanction a contribution from the revenues of this Colony toward such pension, for each year of his continuous service in this Colony, at the rate of one-sixtieth of his average salary and emoluments capable of being counted for pension purposes at the date when he is so taken over; provided that no fractional part of a month may be taken into consideration; provided, further, that such officer retires from the Imperial or other Service on ground which would render it lawful for the Governor to grant him a pension if he were then in the Civil Service of this Colony.

Act No. 21 of 1908.]

Promulgated 28th August, 1908.

## AN ACT

TO PROVIDE FOR THE EXERCISE BY OTHER PERSONS SPECIALLY APPOINTED OF THE POWERS AND JURISDICTION CONFERRED BY THE VOLUNTEER CORPS ORDINANCE 1904 UPON THE COMMANDANT OF VOLUNTEERS.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Exercise of powers and jurisdiction conferred by Ordinance No. 37 of 1904 on Commandant of Volunteers.

\* 1. Anything to the contrary in the Volunteer Corps Ordinance 1904 or any regulations made thereunder any powers or jurisdiction conferred by the said Ordinance or regulations upon the Commandant of Volunteers may be exercised by any officer (as in such Ordinance defined) on whom the Governor in Council may confer such powers and jurisdiction.

Title and date of operation of Act.

2. This Act may be cited for all purposes as the Volunteer Corps Amendment Act 1908 and shall come into operation on the date of its first publication as an Act in the *Gazette*.†

\* See Govt. Notice No. 948 of 1908 (*Gazette*, 18/9/08, p. 1017), conferring powers, etc., on Commandant on Inspector of Volunteers.

† This date was the 28th Aug., 1908.

Act No. 22 of 1908.] [Promulgated 28th August, 1908.

AN ACT

TO AMEND THE LAW RELATING TO THE NOTIFICATION OF  
INFECTIOUS DISEASES.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

\* 1. (1) The Colonial Secretary may from time to time by notice in the *Gazette* declare—

(a) that any disease mentioned in section *four* of Proclamation No. 21 of 1900 or any other disease proclaimed under such section shall cease to be a disease notifiable under the said Proclamation; and

(b) that any disease which under this Act has ceased to be notifiable under the said Proclamation shall again become notifiable thereunder for such period and under such conditions as he may deem advisable;

(c) that any infectious disease other than those mentioned in or proclaimed under the said Proclamation shall be notifiable for such period and under such conditions as he may deem advisable.

(2) The Colonial Secretary may from time to time by like notice declare that any such disease shall only be notifiable in one or more districts or portions thereof described in such notice and not in every district of the Colony.

(3) A copy of any notice under this section shall, within seven days after its publication, be laid on the tables of both Houses of Parliament if Parliament be then in session or if it be not then in session within seven days after the commencement of the next ensuing session.

2. This Act may be cited for all purposes as the *Infectious Diseases Notification Amendment Act 1908*, and shall take effect from the date of its first publication as an Act in the *Gazette*.†

Power to alter list of notifiable infectious diseases and render such diseases notifiable in portion of Colony only.

Title and date of operation of Act.

\* For list of diseases declared notifiable, etc., see footnote to Proc. No. 21 of 1900

† This date was the 28th Aug., 1908.

Act No. 23 of 1908.]

[Promulgated 28th August, 1908.]

## AN ACT

TO AMEND THE FIELD CORNETS ACT 1907.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Sub-section (2) of section *six* of the Field Cornets Act 1907 shall be and is hereby repealed.

2. This Act may be cited for all purposes as the Field Cornets Amendment Act 1908 and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Amendment  
of section *six*  
of Act No. 34  
of 1907.

Title and  
date of  
operation of  
Act.

\* This date was the 28th Aug., 1908.

Act No. 24 of 1908.] [Promulgated 28th August, 1908.

AN ACT

TO AMEND THE LAW RELATING TO THE EXPORT OF ANGORA  
RAMS AND EWES.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The Angora Export Duty Ordinance 1906 (Ordinance No. 3 of 1906) shall be and is hereby repealed.

Repeal of Ordinance No. 3 of 1906.

2. (1) On and after the coming into operation of this Act it shall not be lawful to export from this Colony, save as in this section provided, any Angora ram or ewe.

Prohibition of exportation of Angora rams and ewes save to colonies or territories with reciprocal legislation.

(2) Nothing in this section contained shall apply to the export of any Angora ram or ewe from this Colony to any colony or territory in South Africa in respect of which the Governor shall declare by proclamation in the *Gazette* that there is a law in force in such colony or territory prohibiting, under penalties equal to the penalties hereinafter mentioned, the exportation therefrom of Angora rams or ewes except to a colony or territory in South Africa which is in like manner exempted from the prohibition contained in such law.†

3. Any person who shall contravene the provisions of this Act shall be guilty of an offence and shall be liable on conviction to imprisonment with or without hard labour for a period not less than one year and not exceeding two years.

Penalties for contravention of Act.

4. Courts of resident magistrate shall have special jurisdiction to impose any penalty prescribed by this Act for a contravention thereof.

Special jurisdiction of courts of resident magistrate.

5. This Act may be cited for all purposes as the Angora Export Duty Amendment Act 1908, and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Title and date of operation of Act.

† Prohibition of exportation not to apply to Cape of Good Hope, Natal, Orange River Colony, Southern Rhodesia, Swaziland, Bechuanaland Protectorate, Basutoland, and Province of Mozambique: see Proc. (Admn.) No. 91 of 1908 (*Gazette*, 23/10/08, p. 144), and to German South-west Africa, see Proc. (Admn.) No. 76 of 1909.

\* This date was the 28th Aug., 1908.

Act No. 25 of 1908.] [Promulgated 28th August, 1908.]

AN ACT

TO APPROVE THE CONSTRUCTION OF A RAILWAY BY THE RAILWAY BOARD FROM BELFAST TO LYDENBURG IN THIS COLONY AND TO AUTHORIZE THE GOVERNMENT THEREOF TO ADVANCE TO SUCH BOARD MONEYS TO MEET THE COST OF SUCH CONSTRUCTION.

Assented to 22nd August, 1908.

WHEREAS by article *ten (b)* of a Convention entered into between the Governments of the Transvaal and of the Orange River Colony dated the second day of June, 1908, the terms of which are set forth in the First Schedule to the Inter-Colonial Conventions Ratification Act 1908, it was agreed that the Railway Board by such Convention constituted (and hereinafter referred to as the Board) should have power to construct lines of railway and to complete arrangements concerning the same subject to the approval of the Parliament of the Colony in which any such line is to be situated and that if such line be wholly within one Colony, then subject to the approval only of the Parliament of that Colony;

And whereas the Board purposes to construct wholly within this Colony from Belfast to Lydenburg a line of railway the particulars of which are more specifically set forth in the Schedule to this Act;

And whereas it is proposed that the moneys necessary for the construction of the said line shall be advanced on loan to the Board by the Government of this Colony (hereinafter referred to as the Government) for the construction of the said line out of the portion of the guaranteed loan mentioned in Head No. II of Act No. 8 of 1907 and upon like terms to those upon which the Government is able to raise the said guaranteed loan, provided that the interest to be paid by the Board to the Government upon the advance do not exceed the rate of four per cent. per annum;

And whereas it is necessary as hereinbefore recited that the construction of the said line of railway by the Board be approved and that the advance of moneys by the Government to the Board to meet the cost of such construction be sanctioned by Parliament;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The construction by the Board of a line of railway (together with all sidings, stations, buildings, and other appurtenances necessary or incidental to the proper working of the railway when constructed) from a point at or near the railway station of the Central South African Railways at Belfast to the town of Lydenburg in this Colony is hereby approved.

Construction by the Board of a line of railway from Belfast to Lydenburg approved.

2. The Government is hereby authorized to advance to the Board out of the guaranteed loan raised or to be raised under Act No. 8 of 1907, and more particularly out of that portion thereof described in Head II of the Schedule to the said Act, a sum not exceeding three hundred and sixty thousand pounds sterling. Such moneys shall be advanced upon the terms and conditions following, that is to say—

Government authorized to advance to Board out of guaranteed loan of 1907 a sum not exceeding £360,000 for construction of railway according to Schedule and conditions of advance.

(1) the moneys advanced shall be applied by the Board towards such railway construction as is mentioned in section *one* of this Act and is more particularly described in the Schedule thereto;

(2) interest shall be paid half-yearly by the Board to the Colonial Treasurer upon any moneys so advanced at the same rate at which the said guaranteed loan is raised by the Government but not exceeding four per cent. per annum. Such interest shall be payable on such days as the Colonial Treasurer may determine;

(3) the Board shall pay to the Colonial Treasurer upon the same days a sum equal to ten shillings per cent. on the amount advanced as aforesaid to enable the Government to meet sinking fund payments due or to become due by it under Act No. 8 of 1907 in respect of that proportion of the said guaranteed loan which represents the amount so advanced or if His Majesty's Imperial Treasury shall certify that a greater sum is necessary for the purposes described in sub-section (2) of section *seven* of the said Act, then such greater sum;

(4) the Board shall further pay to the Colonial Treasurer on the same day a sum covering the expenses incidental to the issue of and the management charges of the said proportion;

(5) so long as the administration and control of the Central South African Railways are vested in the Board, the said line shall be worked by it and incorporated in and form part of its system of railways; and whenever those lines of the Central South African Railways which are in this Colony cease to form part of that system, all the liabilities of the Board in respect of the said advance shall cease and determine.

3. This Act may be cited for all purposes as the Lydenburg Railway Act 1908 and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Title and date of operation of Act.

\* This date was the 28th Aug., 1908.



*SCHEDULE.*

## PARTICULARS OF RAILWAY.

Materials and Mode of Construction.	Approximate Cost of Construction.	Approximate Length.
Ordinary sixty-pound rails or if the rails used in the construction of the railway known as the Selati Railway are purchased by the Board from the Government, then with additional sleepers making the line equivalent to a sixty-pound railway line.	£356,000	Sixty-three and one-half miles

Act No. 26 of 1908.] [Promulgated 2nd September, 1908.]

AN ACT

TO AMEND THE LAW RELATING TO PRESCRIPTION.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Any law or usage inconsistent with the provisions of this Act shall be and is hereby repealed, and in particular article *sixteen* of the Placaat of the Emperor Charles the Fifth dated the fourth day of October, 1540 establishing in certain cases a prescription of two years is withdrawn from operation in this Colony; provided that nothing in this Act contained shall affect any period of prescription which is or may be in force in this Colony under any statute of this Colony enacted prior to or after the commencement of this Act; provided further that the law in force prior to the commencement of this Act shall regulate all prescriptions which have been completed at such commencement.

Repeal of laws.

2. In this Act unless inconsistent with the context;

“action” shall mean and include any legal proceeding of a civil nature which may be brought in a competent court in this Colony for the enforcement of a right;

Interpretation of terms.

“commencement of this Act” shall mean the date of the coming into operation of this Act;

“creditor” shall mean any person by whom a right is enforceable by action;

“debtor” shall mean any person against whom a right is enforceable by action;

“person under disability” shall mean a minor, and in the case of an action between spouses the wife unless she is separated from her husband by order of court and shall also include a person of unsound mind or any other person under curatorship;

“prescription” shall mean the limitation of time within which actions may be instituted.

3. The period of prescription in respect of proceedings at common law known as the *actio redhibitoria* or the *actio quanti minoris* shall be one year.

Prescription in *actio redhibitoria*.

4. The period of prescription in an action for defamation of character shall be one year which shall be reckoned from the date when the defamation was first brought to the

Prescription in actions for defamation of character.

knowledge of the creditor, or where the debtor is not known to the creditor, the period of prescription shall be reckoned from the date on which the creditor ascertained or might reasonably have been expected to ascertain the name of the debtor.

Prescription in case of vindicatory actions against bona fide possessors of movables.

5. The period of prescription in respect of vindicatory actions against bona fide possessors of movables shall be one year, except in the case of sales of movables for cash when the period of prescription shall be fourteen days reckoned from the date of the delivery of the movables to the purchaser.

Prescription of three years established in cases of professional fees debts salaries oral contracts rent interest or damages for tort.

6. The period of prescription in respect of—

(a) the fees, disbursements, salary, wages or any other remuneration whatever due to any person for services rendered, labour done or work performed by him in his profession, trade, occupation or calling; or

(b) the price of movables sold and delivered, or of labour done, and materials provided, or of board or lodging supplied; or

(c) any oral contract; or

(d) rent due upon an agreement in writing or interest due upon a mortgage bond; or

(e) all actions for damages; other than those for which another period of prescription is laid down in this Act; or

(f) *condictiones indebiti* and *condictiones sine causâ*;

shall be three years.

Period of prescription in proceedings for *restitutio in integrum*.

7. The period of prescription in respect of proceedings at common law for *restitutio in integrum* shall be four years.

Prescription in case of liquid documents and written contracts.

8. The period of prescription on any bill of exchange, or other liquid document or in respect of any written acknowledgment of debt or written contract of any nature (other than a mortgage bond, general or special or a promissory note not negotiated) shall be six years.

Period of prescription in other cases.

9. The period of prescription in respect of matters for which a period is not hereinbefore fixed shall be thirty years; provided that there shall be no prescription in respect of a judgment of a court of law.

Prescription in case of mixed actions.

10. If two or more periods of prescription may be applied in one action the longest period shall be the period of prescription.

When prescription shall begin.

11. (1) Save as is otherwise specially provided in this Act prescription shall begin to run;

(a) in respect of a right of action accruing after the commencement of this Act, from the date on which such right of action first accrued against the debtor;

(b) in respect of a right of action which accrued before the commencement of this Act and not then prescribed, if the period of prescription fixed by this Act is less than was the period prior to the commencement of this Act, then from the commencement of the Act;

# Memorandum.

From  
Van

To  
Aan

~~Sec 6.~~

Sec

Albert vs. Bondelzwart - mensies  
E.O. Amun. (1921) T.P.O. 103

~~Sec 6.~~

Sec

Amun Fore. vs. v. a. Amun  
(1921) T.P.O. 316  
Carter vs. Frels (1922) T.P.O. 32

~~Sec 6.~~

Sec

Amun vs. mensies (1920) T.P.O. 203  
Amun Fore. vs. v. a. Amun  
(1921) T.P.O. 318

~~Sec 11(1)~~

Ca. v. i. Bam Alesens Ltd  
vs. Amun (1912) T.P.O. 103

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(c) in respect of a right of action which accrued before the commencement of this Act and not then prescribed, if the period is the same or greater than was the period prior to the commencement of this Act, then from the date on which the right of action first accrued against the debtor.

(2) In every case mentioned in this Act if the creditor is a person under disability, prescription shall not begin to run until disability has ceased. And if a debtor is absent from the Colony when a right of action accrued against him, prescription shall not begin to run until he has returned to the Colony.

12. (1) Prescription shall be interrupted by the acknowledgment of the debtor either by--

- (a) part payment; or
- (b) payment of interest; or
- (c) the giving of security; or
- (d) in any other manner admitting liability;

and shall begin to run again *de novo* for the same period from the date when the interruption occurred.

(2) Prescription shall further be interrupted by the institution of action, submission of a dispute to arbitration, filing of a claim against an insolvent estate or company in liquidation or estate of a deceased person, or in any other manner recognised by the common law.

(3) Interruption as against the principal debtor shall be deemed an interruption as against the surety.

13. (1) Prescription shall be suspended so long as performance of an obligation is delayed by *vis major*, or the debtor is lawfully entitled to delay performance on any other ground.

(2) Prescription shall further be suspended as soon as disability commences and during the period of disability.

(3) Prescription shall further be suspended during absence of the debtor from the Colony for a period exceeding six consecutive months.

(4) If a creditor has, by the fraud of the debtor, been prevented from discovering the true facts in respect to his right of action, prescription shall be suspended until the date on which he might with reasonable care have discovered such true facts.

(5) In an action founded upon the fraud of a debtor prescription shall be suspended until the creditor might with reasonable care have discovered the fact of such fraud.

(6) The period of suspension of prescription shall not be deemed to form part of the period of prescription.

14. (1) Prescription shall not be interrupted or affected in respect of one joint debtor by reason of any fact which would interrupt or affect prescription in respect of any other joint debtor except in the case of debtors liable *in solidum*.

(2) If action is instituted for the amount or balance of an account containing any number (being more than one)

Interruption  
of prescrip-  
tion.

Suspension of  
prescription.

Circum-  
stances which  
do not  
interrupt  
prescription.

of items or matters of claim which are subject to any period of prescription fixed by this Act, no action shall be maintainable for an item or matter of claim the right of action in respect of which arose outside the period of prescription so fixed by reason only that there is comprised in the same account one or more items or matters of claim the right of action in respect of which first arose within the period of prescription; provided that all the fees of advocates, and the fees and disbursements of attorneys, conveyancers, public notaries and law agents shall for the purposes of this Act be held to become due and payable—

(a) in litigious matters, on judgment or settlement, or on abandonment of action; and

(b) in non-litigious matters, when the work in question shall have been completed

or when the relationship of lawyer and client shall have ceased in regard to the particular matter.

Period of prescription in regard to immovable property and servitudes limited to thirty years.

15. The period of prescription in regard to immovable property and servitudes upon or connected therewith shall be thirty years, and shall be reckoned from the date on which the right of action first accrued.

Exclusion extension or renunciation of prescription.

16. (1) Prescription shall not be excluded or extended by act of parties otherwise than in accordance with this Act.

(2) Prescription may only be renounced after the period of prescription has elapsed and the renunciation shall be in writing.

Prescription to apply to all persons indiscriminately, but limited as against the Crown.

17. Save as may be otherwise specially provided by any statute, prescription shall apply in favour of and against every person, local authority, corporate body, and institution, and any body of persons, whether corporate or unincorporate.

Title and date of operation of Act.

18. This Act may be cited for all purposes as the Prescription Amendment Act 1908 and shall come into operation on the first day of January 1909.

Act No. 27 of 1908.] [Promulgated 2nd September, 1908.

AN ACT

TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE USE OF WATER OF PUBLIC STREAMS, AND TO PROVIDE FURTHER FACILITIES FOR THE IRRIGATION OF LAND AND USE OF WATER.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

PRELIMINARY.

1. Law No. 17 of 1887, Law No. 11 of 1894, and Ordinance No. 67 of 1903 shall be and are hereby repealed. Repeal of Laws.
2. In this Act, unless inconsistent with the context; Interpretation of terms.
  - “arbitration” shall mean arbitration in manner provided by the Arbitration Ordinance 1904, or any amendment thereof;
  - “Chief Engineer” shall mean the chief engineer of the department or any person lawfully acting in such capacity;
  - “department” shall mean the Irrigation Department established under this Act;
  - “farm” shall mean a piece of land registered as a farm or portion of a farm in the Deeds Office and shall include a town and any town lands vested or to be vested in any local authority;
  - “Governor” shall mean the officer for the time being administering the government of this Colony, acting by and with the advice of the Executive Council thereof;
  - “irrigation work” shall mean—
    - (a) a canal, channel, reservoir, embankment, weir, dam, or other work constructed for or in connection with the impounding, storage, passage, drainage, or use of water or the conservation of rainfall; and
    - (b) any land occupied by the department, or a river board, or a proprietor, for or in connection with the impounding, storage, passage, drainage, or use of water; and
    - (c) gauge posts, measuring weirs, and other appliances erected or used by the department or a river board;

- “local authority” shall mean a Municipal Council constituted under the Municipal Corporations Ordinance, 1903, or any amendment thereof, or under any special law, and shall include a local authority constituted under any law hereafter enacted which makes provision for local government;
- “Minister” shall mean the Minister of Lands or any other member of the Executive Council to whom the Governor may assign, from time to time, ministerial responsibility for the department;
- “proprietor” shall mean the person registered in the Deeds Office of this Colony as the owner of a farm; or, if such person has disposed of his right to use the surface of the farm by lease or other document registered against title, the person registered as the holder of such lease or document, and shall include the legal representative of any such person who has died, become insolvent, is a minor, or is of unsound mind, or is otherwise under disability.
- “public stream” shall mean a natural stream of water—
- (a) which in ordinary seasons flows for the greater part of the year in a known and defined channel (whether or not such channel is dry during any period of the year); and
  - (b) which is capable of being applied to the common use of riparian proprietors.
- A stream of water which fulfils these conditions as to part of its course only shall be deemed to be a public stream as regards such part;
- “regulation” shall mean a regulation set forth in the Second Schedule to this Act or any additions or alterations to such Schedule made by the Governor under the powers of this Act;
- “riparian farm” shall mean a farm held under an original grant or a deed of transfer of such grant through which, or along the boundary of any portion of which, a public stream flows. A sub-division of a riparian farm, even if a public stream does not flow through or along the boundary of the sub-division shall derive its riparian rights from the riparian farm of which it originally formed a portion, unless, in respect of the sub-division, no right to water from a public stream has been acquired by deed of transfer, agreement, order of a competent court, or other mode of acquisition. A farm which is Crown Land and the situation of which in relation to a public stream would render it riparian, shall not be deemed to be non-riparian by reason that no original grant thereof has been made;
- “riparian proprietor” shall mean the proprietor of a riparian farm;
- “river board” shall mean a board of a river district constituted under Chapter II, and when used in



reference to a particular river district, shall mean the river board of such district;

“river district” shall mean an area for the time being constituted a river district under the powers of Chapter II, and, when used in relation to a river board, shall mean the district under the jurisdiction of such board;

“subterranean water” shall mean any water obtained from underground sources;

“surplus water” shall mean any water in a public stream in excess of the normal flow of such stream, and any water which, not being required for the uses described in section *forty-six* on riparian farms, would otherwise run to waste; and “normal flow” shall be the average flow of the public stream during the period from the first day of May to the last day of October as determined after investigation by the department.

3. This Act is divided into eight Chapters, relating to the following matters respectively:—

Chapter I—Central Control over the use of Public Water.

Chapter II—Local Control over the use of Public Water.

Chapter III—Use of Private and Public Water.

Chapter IV—Use of Subterranean Water.

Chapter V—Water Courts.

Chapter VI—Servitudes which may be acquired under this Act in respect of Water.

Chapter VII—Loans, Subsidies, and Grants-in-Aid for irrigation purposes.

Chapter VIII—General.

Division of Act.

## CHAPTER I.

### CENTRAL CONTROL OVER THE USE OF PUBLIC WATER.

4. (1) There shall be a department, to be known as the Irrigation Department, which shall be subject to the direction and authority of the Minister.

Irrigation Department

(2) The functions of the Irrigation Department shall, subject to the provisions of this Act, be—

(a) to supervise and control irrigation works, and to do all acts necessary or incidental to the establishment and maintenance of irrigation works;

(b) to prepare hydrographic maps and collect information necessary for their preparation;

(c) to make surveys, plans, and estimates for public irrigation works, to prepare schemes for the prevention of the run off, and for the conservation of rain-water in localities where conditions are favourable and for the prevention of the denudation of the country by the action of storm-water in the removal of alluvial soil, and to record information as to the result of surveys made and investigations held;

(d) to examine and advise upon any scheme for the establishment, maintenance, repair, or alteration of irrigation works, submitted to it by private individuals, river boards, local authorities, or any corporate body, whether in connection with the grant of a loan under this Act or otherwise;

(e) to advise as to the expediency of sanctioning or granting loans under this Act or any other law, in connection with irrigation works;

(f) generally to carry out, in accordance with directions, the powers and duties by this Act or any amendment thereof or by regulation conferred or imposed upon the Governor or the Minister.

(3) The Irrigation Department in existence at the commencement of this Act shall be deemed to have been established under this section.

Appointment of Chief Engineer and other officers of the department.

5. (1) The Governor shall, from time to time, appoint an officer to be styled the Chief Engineer, who shall be subject to the orders and directions of the Minister.

(2) The Governor may, from time to time, appoint such engineers, geologists, surveyors, clerks, and other officers as may be necessary to enable the function of the department to be effectually exercised.

General powers of the Governor.

6. The Governor may, by the officers of the department, and out of the moneys provided by Parliament for the purpose—

(a) establish or maintain hydrographic stations and record the observations made thereat;

(b) construct, control, extend, alter, maintain, and repair irrigation works;

(c) sink boreholes and wells and obtain from underground sources supplies of water, and conserve the same when obtained;

(d) obtain and record information as to the extent of land in this Colony under irrigation; the quantity of water used for the same, and the amount, nature, and value of crops raised thereby, and generally obtain and record information and statistics as to the hydrographic conditions of this Colony;

(e) advise proprietors as to the construction, alteration, maintenance, or repair of irrigation works, and assist therein, and generally assist in and advise on matters affecting the irrigation of land on conditions prescribed by regulation, and charge fees for the assistance and advice on a scale to be likewise prescribed;

(f) furnish engineering assistance, at or without the prescribed charges, to local authorities and river boards, and give technical advice to water courts in the hearing by them of disputes and claims under this Act;

(g) inspect any irrigation work or the course of any public stream and order any local authority, river board, or any person to do such acts and execute such repairs as may be deemed necessary in the public interests, and, in default

of compliance within a time specified in such order, execute the same at the cost of the defaulting local authority, board, or person.

7. (1) The Governor may, from time to time and subject to any existing rights, construct any irrigation work which he may think necessary or desirable for the purpose of draining into or conserving or utilizing any public stream, or for abstracting, storing, or preventing the waste of subterranean water, and may supply and distribute, in accordance with regulation, water from such works.

Construction of irrigation and drainage works by the Government.

(2) The Governor may further, from time to time, assess and levy rates (to be called Government rates) from the proprietors of farms irrigated or benefitting directly or indirectly by water from works constructed under this section or from any other such works the property of the Government.

(3) The provisions of sub-section (1) of section *thirty-one* sub-sections (5) (6) and (7) of section *thirty-two* and section *thirty-three* shall, *mutatis mutandis* and so far as they are applicable, apply in respect of the assessment, levying, and recovery of rates mentioned in this section, the functions assigned to the river board or the chairman thereof, under such sections being exercisable in the application thereof by the Minister.

(4) The Governor may enter into agreements with proprietors for the transfer or exchange of any portions of farms in commutation of the rates payable by such proprietors under this section.

(5) No works mentioned in this section, nor any water distributed therefrom, shall be subject to the administration or jurisdiction of any river board.

## CHAPTER II.

### LOCAL CONTROL OVER THE USE OF PUBLIC WATER.

#### (a) *Constitution of River Districts.*

\*8. (1) If at any time it shall appear to the Governor expedient that the use of the water in any public stream or streams should be subject to special control, he may, by proclamation in the *Gazette*, constitute the area comprising such streams, or any portion thereof, a river district, assign a name to such district and, if it appear desirable, divide the same at any time for electoral purposes into wards.

Power to establish river districts.

(2) The powers of the Governor under sub-section (1) may be exercised after or without the presentation of such petition as in sub-section (3) is described; provided that such power shall not be exercised without the presentation of such

\* The following river districts were constituted : Aapies River by Proc. (Admn.) No. 9 of 1909 ; Crocodile River by Proc. (Admn.) No. 33 of 1909 ; Schoonspruit by Proc. (Admn.) No. 37 of 1909 ; Dorps River (Pietpotgietersrust) by Proc. (Admn.) No. 54 of 1909 ; Mooi River by Proc. (Admn.) Nos. 74 of 1909 and 23 of 1910.

petition, unless notice shall have been given by the Minister once in each of three consecutive weeks in the *Gazette* and in a newspaper circulating in the proposed area, stating the intention of the Governor to exercise such power and the proposed boundaries of the river district, and, within one month after the date of the last publication of such notice, no sufficient cause shall have been shown against the proposed exercise of the power.

(3) A petition for the constitution of a river district shall state the area to be included in such district and shall be signed by not less than three proprietors of riparian farms, situate in such area, who hold not less than one-tenth portion of the land irrigated from the public streams in such area. The petition shall further state the proposed boundaries of the area and of the wards (if any) into which it is proposed that the area be divided for electoral purposes. Such summary of, or extracts from, the petition, as the Minister may determine, shall be published in the *Gazette* and a newspaper circulating in the area, and shall be posted outside all public offices and at such other conspicuous places in the area as the Minister may determine.

(4) A counter-petition, in opposition to the constitution of a river district, setting forth the grounds of opposition, may be presented, signed by persons qualified to sign a petition, and shall be published in manner provided by subsection (3) for the publication of a petition.

(5) The Minister shall cause investigation to be made as to any matters alleged in a petition or counter-petition, and may appoint an officer of the department or other person to hold such investigation.

(6) Upon the report of the investigation the Governor may grant the petition, with or without modifications, or may refuse the same.

†9. (1) The Governor may, from time to time,—

(a) alter the boundaries of a river district or of any wards thereof; or

(b) combine two or more river districts into one river district; or

(c) sever any portion of a river district and add the portion so severed to another river district with which it forms a continuous area; or

(d) constitute any severed portion a new river district:

provided that no such alteration, combination, severance, or constitution of severed portion into a new river district, shall take place except after a petition presented and investigation carried out in manner described in the last preceding section.

(2) In the event of the boundaries of a river district or of its wards being altered or a portion of the district being severed and added to another river district, the Governor may order all such steps to be taken with regard to the increase or decrease of members of the river board for each district, the

† For alteration boundaries Mooi River district, see Proc. (Admn.) No. 2<sup>3</sup> of 1910.

election of members, or the apportionment of members, among the districts, or (as the case may be) among the wards, as may be expedient to meet the circumstances of the case, and may determine the period for which any member so elected or apportioned is to hold office, and may apportion the assets and liabilities between the river boards for the districts so that the general intent and purpose of the provisions hereinafter contained, relating to the constitution, powers, and duties of river boards, may have effect.

10. The Minister may (subject to the provisions of this Act) exercise, in respect of public streams not included in a river district, all the powers by this Act conferred upon a river board, with the exception of the power of levying the river rates mentioned in section *thirty-two*.

Exercise of powers of river board by Minister in respect of public streams not included in river districts.

(b) *Constitution of River Boards.*

11. For every river district there shall be a river board consisting of five, seven, nine or eleven members, as the Governor may determine, elected in manner hereinafter provided and, if the river district be divided into wards, the Governor shall determine the number of members to represent each ward.

River boards for every river district.

12. (1) The qualification of persons to vote at elections of a river board shall be determined in accordance with the rules set forth in the First Schedule to this Act.

Qualification of voters and framing of list of voters.

(2) As soon as the Governor shall have issued a proclamation under this Act constituting any area a river district, it shall be the duty of the resident magistrate having jurisdiction in such area (or if there be more than one such magistrate, then the resident magistrate having jurisdiction over the largest portion of such area) to frame a provisional list of persons qualified to vote at elections of the river board, and, if the river district be divided into wards, a provisional list of persons qualified to vote in each ward. Such list shall show the number of votes which each person is entitled to record at such elections.

(3) The said magistrate shall cause the provisional list so framed to be posted outside the principal door of his court house and at all public offices and such other conspicuous places in the river district, or, if it be divided into wards, in each ward, as he may determine, and the said list shall remain so posted for a period of three weeks, together with a notice that—

(a) any person, qualified to vote in accordance with the First Schedule to this Act, whose name is not inserted in the said list or in that portion of the list relating to the particular ward in which he claims to be qualified to vote;

(b) any person to whom fewer votes are assigned than he is entitled to in accordance with such Schedule;

(c) any person objecting to the inclusion of any name in the said list or in any portion of the list relating to a particular ward;

(d) any person objecting that a larger number of votes have been assigned to a particular name than ought to have been assigned;

may appear on a day, and at a time and place to be in such notice specified, and put forward his claim or objection (as the case may be).

(4) Upon the day and at the time and place so specified the said resident magistrate shall hear and determine the claims and objections so put forward, and may do all acts in respect of such list necessary to make the final list correct as to the names of persons lawfully qualified to vote, as to the wards (if any) in respect of which they are qualified to vote, and as to the number of votes which each such person is lawfully entitled to record.

(5) The final list shall be preserved by the said magistrate and, until amended or revised in accordance with the next succeeding section, shall be conclusive and deemed to be the only proof of the right of any person to vote at any election of the river board for that river district.

(6) A copy of the final list so determined and certified by the said magistrate as correct, shall be transmitted, as soon as complete, to the department, and a further copy, likewise certified, shall be kept and be open at all reasonable times to public inspection at the place at which the river board holds its meetings.

Triennial  
revision of  
list of river  
voters.

13. The final list shall, whenever the said magistrate shall become aware of any change in the proprietorship of a riparian farm, be amended to the extent rendered necessary by such change, and shall further be revised every third year in the month of April by the said magistrate and converted into a correct list of all persons who, at the amendment or revision, were qualified to vote, with the correct number of votes which each such person is entitled to record at elections of the river board and, if the river district is divided into wards, into a correct list of voters qualified respectively to vote in each ward. The provisions of the last preceding section as to the hearing of claims and objections shall apply to any amendment or revision under this section, and the provisions of the last preceding section as to the transmission to the department and the keeping and inspection of copies of final lists shall apply to any list amended or revised under this section.

Nomination  
of candidates.

14. (1) As soon as the copy of any final or revised list of voters for a river district has been received by the department, the Minister shall, by notice in the *Gazette* and in a newspaper circulating in such district and posted in such conspicuous places therein as he may determine, appoint a day, hour, and place at which the said magistrate shall hold a public meeting to receive nominations of candidates for membership of the river board.

(2) Every person to be so nominated shall be qualified as in the next succeeding section is provided, and shall be proposed and seconded by two persons whose names appear in the final, amended, or revised list of voters (as the case may be).

(3) If the river district is divided into wards every person to be nominated for any ward shall be proposed and seconded respectively by two persons whose names appear in the final, amended, or revised list of voters for such ward.

(4) Every nomination shall be in writing, and shall contain the full name and address of the person nominated and shall be signed by the proposer and seconder.

(5) Every nomination so signed may be handed to the said magistrate at the meeting, or may be transmitted to him by post or otherwise, but no nomination received by him after the close of such meeting shall be accepted as a valid nomination.

15. (1) Every proprietor in the river district, whose name is included on any register for the time being in force of persons qualified to vote at the election of members of the Legislative Assembly of this Colony for any electoral division forming part of the river district, shall be qualified to be elected a member of the river board of that river district and in addition—

Election of  
members.

(a) if the Crown is a proprietor in any river district a person designated by the Minister shall be deemed to be a proprietor in such district for the purpose of this sub-section; and

(b) if a body corporate is a proprietor in any river district a person whose name is notified in writing to the Minister by the body corporate shall be deemed to be a proprietor in such district for the purposes of this sub-section.

(2) If the number of persons, validly nominated as aforesaid, does not exceed the number of persons to be elected at any election, or, if the river district is divided into wards, the number of persons to be selected for the ward for which the election is being held, the persons so nominated shall forthwith be declared by the said magistrate to be duly elected.

(3) If the number of persons validly nominated exceed the number of persons to be elected at any election, or, if the river district is divided into wards, the number of persons to be elected for the ward for which the election is being held, the said magistrate shall fix a date upon which a poll shall be taken, not being less than fourteen days after the date of nomination, and shall forthwith give notice of such date in a newspaper circulating in the river district, and at such conspicuous places in the river district or in each ward (as the case may be) as he may determine.

(4) Such poll shall be taken by means of a voting paper sent through the post to each voter at his address on the final, amended, or revised list of voters; and such voter shall indicate thereon for which candidate or candidates he desires

to vote and the number of votes he desires to record for any one candidate. A voter who, in accordance with the rules laid down in the First Schedule to this Act, is entitled to record more than one vote, may record all or any of such votes for one candidate, or distribute his votes among the candidates to be elected; provided that a voter may not record a vote for more candidates than there are members to be elected for the river district or ward (as the case may be). Upon completing his voting paper, the voter shall return the same to the said magistrate, by post or otherwise, within the period to be fixed by such officer.

(5) Upon ascertaining the result of the poll the said magistrate shall declare the same and shall further declare the candidates elected by a majority of votes, to be duly elected for the river district or ward (as the case may be). In the event of the number of votes recorded for any two or more candidates being found to be equal, and in the event of such equality of votes rendering it impossible to declare which candidates are elected, the said magistrate shall, by lot, immediately determine the election.

(6) As soon as possible after the said magistrate shall have declared which persons are duly elected he shall transmit to the Minister a statement, showing the full names and addresses of such persons, and the Minister shall thereupon publish in the *Gazette* a notice showing the names of such persons and stating the date and place of the first meeting of the river board the election of which has been held.

(7) The expenses incurred by the said magistrate in the conduct of any election held under this section shall be defrayed out of the general revenue of the Colony.

Provision in case of failure to elect the proper number of members.

16. If, from any cause whatever, the prescribed number of members be not elected, the Minister shall appoint so many qualified persons as will complete the prescribed number, and any person so appointed shall be a member of the river board and if the river district be divided into wards, shall represent such ward as the Minister may determine, being a ward for which the prescribed number has not been elected.

Disqualifications of members of board.

17. Any member of the river board who shall cease to possess any of the qualifications for being a member, or who shall absent himself from three consecutive ordinary meetings of the river board without its leave, or who shall receive any salary, fee, or reward (pecuniary or otherwise) in connection with his service as a member or acquire any pecuniary interest or advantage in any contract to be performed by or for the river board shall *ipso facto* vacate his office.

Casual vacancies.

18. (1) Any member of the river board may resign his office on giving one month's previous notice in writing of his intention to the chairman; and the chairman shall at the first meeting of the river board after receiving such notice, or after satisfying himself of any member's death or disqualification (as the case may be), declare a vacancy of such member's office, and in the case of a disqualification give written notice to such member; provided that a member whose office has been



declared vacant by reason of disqualification may apply to the court of resident magistrate having jurisdiction, to have such declaration set aside, and notice of intention to make such application and the grounds thereof shall be given to the chairman within one week after the declaration, and the application shall be made within twenty-one days thereafter.

(2) When a member of a river board shall die or vacate his office, the remaining members shall, as soon as may be after the declaration of vacancy, choose a qualified person to fill his place.

(3) Any person so chosen shall hold office for the remainder of the period for which the member who has died or vacated office and whose place is so filled would otherwise have continued in office, and shall be deemed to represent the ward (if any) which the dead or vacating member represented.

19. (1) Save as is provided in this section and in sections *nine*, *twenty-two*, and *twenty-three*, every river board shall hold office for a period of three years.

Period and date of assumption of office of river boards.

(2) A newly constituted river board shall hold office until the thirtieth day of June, in the third year succeeding its first election.

(3) Every election of a board subsequent to the first election [other than boards constituted by reason of the exercise of the powers mentioned in sub-section (1)] shall be held before the period of office of the existing river board expires, and every river board subsequently elected shall assume office on the first day of July after its election.

(4) Every member of a river board shall, subject to the provisions relating to qualifications and disqualifications of members, be eligible for re-election as a member of such board.

20. (1) The river board shall elect one of its members to be chairman of the board, and he shall preside at all its meetings at which he is present. Such election shall be made if possible at the first meeting of the board held after any general election of its members, or if from any cause a chairman be not elected at such first meeting he shall be elected at the next ordinary meeting, or at a special meeting to be held as soon thereafter as possible.

Chairman of river board.

(2) If the chairman be absent from any meeting of the river board, the members present shall elect one of their number to preside at such meeting.

(3) Any person presiding at a meeting of the river board, in accordance with this section, shall, in case of an equality of votes upon a matter which the board is determining, have a casting vote in addition to his deliberative vote.

21. (1) The Minister may, at the request of the river board, nominate one of the engineers of the department to assist such board or any committee thereof with advice upon technical matters which come before the board or such committee for discussion.

Engineer to assist river board.

(2) Any notice which, under this Act or the regulations, is sent to any member of the river board, shall be sent also to the engineer so nominated.

(3) Such engineer and the Chief Engineer may attend all meetings of the river board or any committee thereof, and shall have the right to speak but not to vote thereat.

22. If a river board makes default in carrying out any duties imposed upon it by this Act or by regulation, the Governor may order such board to carry out its duties, and in the event of the failure of such board to comply with such order within a time fixed thereby, the Governor may dissolve such board and order a new board to be elected in manner hereinbefore provided; provided that during any period between the dissolution of one river board under this section and the election of another river board, the powers and duties of such board shall be and are hereby vested in the Minister.

23. If at any time on the termination of the period of office of members of a river board (otherwise than by its dissolution under the last preceding section) a new river board shall not have been elected as provided by this Act, such members shall, notwithstanding the termination of their period of office, continue to be the river board for the river district until a new river board is so elected.

(c) *Procedure of River Boards.*

24. (1) Ordinary meetings of a river board shall be held at such intervals, not being longer than two months, as it may from time to time determine.

(2) Special meetings of a river board may be convened by the chairman at any time and shall be convened by him upon a requisition in writing signed by two members of the board.

(3) Every river board shall fix the number of its members which is to constitute a quorum at its meetings; provided that in no case shall the quorum fixed be less than three or more than five members.

(4) Minutes of the proceedings of every meeting of a river board or of any committee thereof, shall be regularly kept in a book set apart for the purpose and such minutes shall be submitted for confirmation at the next subsequent meeting of the board or such committee, and, if confirmed, signed by the person presiding thereat. The Chief Engineer or any engineer nominated under section *twenty-one* shall at all reasonable times have access to such minutes.

(5) A copy of all such minutes, to be signed by the chairman and certified under his hand as a correct copy, shall be *prima facie* evidence in all courts of the proceedings of any meeting of which they purport to be minutes.

(6) Until the contrary is proved, every meeting, minutes of the proceedings of which have been kept, signed and certified as aforesaid, shall be deemed to have been duly convened and held and all the members present at the meeting shall be deemed to have been duly qualified, and if the proceedings are proceedings of a committee of the river board, such committee shall be deemed to have been duly constituted and to have had power to deal with the matter referred to in the minutes.

Power of Governor in regard to boards in default.

Outgoing members to hold office until new members appointed.

Meetings of river boards.

25. (1) Every river board shall, at its first meeting or as soon thereafter as may be, appoint one person to be secretary and treasurer of the board; provided that—

Officers of the river board.

(a) if a member be appointed secretary and treasurer, he shall receive no remuneration;

(b) if a person appointed secretary and treasurer be not a member, he shall receive such remuneration (if any) as the board may fix, subject to the approval of the Minister.

(2) Every river board may further appoint an officer to be styled the water bailiff, who shall perform such duties and have such powers as the board may fix by bye-law and receive such remuneration as the board may fix, subject to the approval of the Minister. The office of secretary and treasurer and the office of water bailiff may be held by the same person. A member of the river board shall not be appointed its water bailiff.

26. (1) A river board shall be a body corporate, and, as such, capable of suing and being sued, of holding land or other property, movable or immovable, and of doing all acts that bodies corporate may do, subject to the provisions of this Act.

Miscellaneous provisions relating to boards.

(2) No payment shall be made by the treasurer out of the funds of a river board, except in pursuance of a resolution of the board.

(3) Every order, notice, or other document requiring authentication by a river board shall be deemed to be sufficiently authenticated if signed by the chairman and any one or more members.

(4) Every contract of a river board shall be deemed to be duly executed by or on its behalf, if signed by the chairman and any one or more members thereto authorized by resolution of the board.

(d) *Power and Duties of River Boards.*

27. (1) Every river board may, subject to the provisions of this Act, exercise the following powers; namely, it may—

General powers of river board.

(a) protect the sources of the water of any public stream in the river district;

(b) prevent the waste of the water of any public stream in the river district;

(c) exercise general supervision over all public streams within the river district, and if it deems necessary or expedient, cause such streams to be cleansed, deepened, widened, straightened, or otherwise improved, and enter into contracts for the performance of such work;

(d) prevent the leakage or flow of any public water from the surface into subterranean channels;

(e) prevent by all lawful means any unlawful diversion, abstraction, or storage of public water or subterranean water, cause to be removed any obstruction unlawfully

placed in a public stream, and prevent any unlawful act which is calculated to diminish the quantity of water in any part of a public stream;

(f) institute legal proceedings for the purpose of carrying out any power or duty conferred or imposed upon it under this Act, and defend any legal proceedings instituted against it, provided that it shall not institute or defend proceedings involving title to immovable property or in which a declaration of rights is sought, unless two-thirds of the votes (determined by reference to the voters list for the river district) be recorded in favour of instituting or defending such proceedings by the holders personally present at a meeting specially called for the purpose after one month's notice by the chairman of the board; provided further that the votes of a person whom it is proposed to make a party to such proceedings shall not be recorded:

(g) with the previous sanction of the Minister, acquire by purchase or otherwise, or construct irrigation works in connection with the public streams of the river district; and, for the purpose of managing or administering such works, delegate powers or duties to a committee as provided in paragraph (j) of this sub-section;

(h) maintain in proper order and repair any irrigation works acquired or constructed by it under the powers of this Act, take all steps for the conservation of the water stored in, diverted or abstracted by, or utilized in connection with such works, and arrange for its proper distribution and use in accordance with this Act or with regulation;

(i) with the previous sanction of the Minister order any riparian proprietor to carry out such work and execute such repairs in relation to his own irrigation works as it may deem necessary in the public interest, and, in default of compliance with such order, itself cause such work to be carried out or repairs to be executed at the cost of such person;

(j) with the previous sanction of the Minister delegate to a committee any powers or duties conferred or imposed by this Act or by regulation upon the board and place upon any such committee persons who are not members of the board but are voters of the river district approved by the Minister.

(2) Nothing in this section contained shall be deemed to authorize a river board to arrange for the distribution and use of water within the area of jurisdiction of a local authority. In any such area the local authority shall have all the powers as to distribution and use of water conferred upon it by the Municipal Corporations Ordinance, 1903, or any amendment thereof, or in the case of a local authority constituted under a special law, the powers conferred upon it by such law, or any amendment thereof.

28. Every river board shall subject to the provisions of this Act carry out the following duties; namely, it shall—

General duties of river board.

(a) investigate, define, and record in accordance with regulation, the quantity or share of water of a public stream which, at the different stages of its flow, may be used by persons having the right of user thereof, and determine the manner in and the times at which such quantity or share may be taken by such persons;

(b) determine the method by which rights to the use of water may be exercised, keep a register of such rights, and allow the same to be open to inspection at all reasonable times;

(c) supervise and regulate the distribution and use of the water of the public streams in the river district in accordance with established rights;

(d) prescribe for its district in consultation with the department a standard showing the area of land which can be effectively irrigated in respect of any particular kind of crop by a constant flow of water equal to one cubic foot per second;

(e) assist the Governor and the Minister in carrying out, so far as concerns the river district, the powers and duties conferred and imposed upon them under Chapter I.

29. (1) It shall not be lawful for a river board to remove from a public stream or otherwise interfere with, so as to injuriously affect the supply of water, any weir constructed before the commencement of this Act without the consent of all persons having the actual use of it,

Protection of weirs and other obstructions erected before the commencement of this Act.

(a) except upon the authority of a water court or a superior court; and

(b) unless any compensation awarded by such court has been paid or is payable to such persons.

(2) For the purposes of this section the term "weir" shall include any storage or other dam or any obstruction made for the purpose of raising the level or diverting the flow of the water of a public stream.

30. Every person entitled to any servitude acquired before the commencement of this Act in connection with the use of water shall, within such period as the river board may fix in each particular case, define and register such servitude at the office of such board in accordance with regulation; and in default of compliance with the requirements of this section or such regulation within the time fixed as aforesaid, and as long as such servitude remains unregistered, it shall not be recognised by the board for the purpose of the distribution of water by it or for any other of its purposes under this Act.

Duty of persons claiming servitudes acquired prior to Act to register the same within a time fixed by river board.

31. (1) Every river board shall, as soon as possible after its election, prepare in accordance with regulation a schedule of the ratable area of riparian farms within the river district, and may from time to time alter such schedule in manner prescribed by regulation.

Duty of river board to prepare schedule of ratable areas.

(2) In fixing the ratable area, a river board shall have regard to the share or volume of water (other than water stored under the permission mentioned in section *forty-eight*) from the public streams in the river district which a proprietor has a right to use upon his farm, and the number of morgen (to be ascertained after investigation) annually irrigated on the farm by such share or volume of water.

32. (1) To defray any expenditure lawfully incurred by a river board under this Act or the regulations for the general administration or improvement of the public streams in the river district such board may levy river rates, subject to the provisions of this and the last preceding section.

(2) Whenever a river board shall have determined by resolution that the levying of a river rate is necessary, the chairman shall give notice in writing of such resolution to every person whose name appears on the schedule mentioned in the last preceding section and at the address mentioned in such schedule. Such notice shall specify approximately the total amount of river rate that would be payable in accordance with such schedule by such person, and shall fix a place, date and hour (not being less than one month after the date when the notice was given) at which a meeting of voters for the river district shall be held to consider the proposal. The chairman shall preside at such meeting and if thereat more than one-third of the votes which the holders thereof are entitled to record at elections of the river board, be recorded by such holders present at such meeting, against the levying of a river rate, no such rate shall be levied during that year. A like procedure shall be observed in the event of a river board resolving in any subsequent year that the levying of a river rate is necessary.

(3) If a river board has at any time levied a river rate and any portion of a loan raised upon the security of such rate remains unpaid, or, if in the opinion of the Minister, the levying of a river rate by a river board is necessary for maintaining and keeping in repair works constructed by it or for satisfying its liabilities, the Governor may order such board to levy a river rate to an amount sufficient for the purposes in this sub-section described.

(4) The Governor may at all times disallow a resolution of a river board to levy a river rate, notwithstanding that the holders of one-third of the votes determined as aforesaid have not signified their objection thereto in manner aforesaid; and as soon as the disallowance of the resolution shall be notified to the board, such resolution shall be deemed to have been rescinded.

(5) After the passing of a resolution to levy river rates and subject to the provisions of sub-sections (2) (3) and (4) the board shall cause to be prepared a list (called the river assessment roll) specifying the names of all persons holding ratable farms, the description and extent of such farms and the extent of ratable area therein, the proportion of rate to be levied, and the total amount due from each proprietor.

(6) A copy of the river assessment roll shall be open for inspection at the office of the board at all reasonable times free of charge.

(7) River rates shall be assessed at a uniform sum per morgen of ratable area, and as soon as the same are assessed notice shall be given by the river board to the Registrar of Deeds of the names and numbers of the farms in respect of which the assessment is made and the amount thereof.

33. (1) All river rates imposed upon the proprietors of ratable farms shall be payable at the office of the river board on a day to be appointed by it, one month's notice of the day so appointed being given to each such proprietor.

Recovery of  
river rates  
levied.

(2) If within one month after such day the river rates due from any proprietor have not been paid, the board may without further demand apply to the court of resident magistrate within whose jurisdiction the ratable farm is situate, which may, if satisfied that the rate is due and unpaid, issue a summary warrant addressed to the messenger of his court requiring him to levy, without judgment or other proceedings, sufficient execution against the movable and immovable property (being within his magisterial district) of the person in default to cover the amount of rate due and the costs of execution.

Process in aid granted by the Supreme Court shall not be necessary to enable execution to be levied against any immovable property under the warrant.

(3) No transfer shall be passed before the Registrar of Deeds of any farm in respect of which the notice aforesaid has been given to him until a certificate of the secretary and treasurer of the river board shall be produced showing that all river rates due to the board under this Act from the proprietor have been paid.

34. To defray the interest and redemption charges on expenditure lawfully incurred by a river board in constructing irrigation works for the benefit of any particular portion of its district and to defray the cost of administering and maintaining such works, the board may, with the approval of the Governor and in addition to the powers conferred by section *thirty-two* levy rates to be called "irrigation rates" on all land irrigated or capable of being irrigated by such works and the provisions of sub-section (1) of section *thirty-one*, sub-sections (5), (6) and (7) of section *thirty-two* and section *thirty-three* shall *mutatis mutandis* and so far as they are applicable apply in respect of the assessment, levying and recovery of irrigation rates.

Power of  
river board  
to levy  
irrigation  
rates.

35. (1) A river board may from time to time raise loans in such amounts and on such conditions as may be approved by the Governor, for the purpose of purchasing or carrying out any permanent irrigation works which it is authorized under this Act to carry out or purchase, or for any capital expenditure in connection therewith.

Power of river  
board to raise  
loans.

(2) No such loan shall be raised without the previous approval of the Governor of the objects of the loan, nor if the

holders of more than one-third of the votes (as determined by reference to the voters list of the river board) signify their objection to the raising of the loan in manner provided by section *thirty-two*, after the procedure described in such section has been observed.

(3) Every such loan shall be secured on the property, rates, and other revenue of the board.

(4) Before signifying his approval to the raising of a loan by a river board, the Governor shall require the board to furnish such particulars as it is required under Chapter VII to furnish before obtaining a loan under such Chapter.

Power to  
Minister to  
grant money  
to river boards  
towards  
expenditure  
during first  
year.

36. The Minister may, out of funds voted by Parliament for the purpose, grant to any river board sufficient money to cover its probable expenditure during a period of twelve months immediately succeeding its constitution; provided that—

(a) the total amount so granted to any one board shall in no case exceed one hundred pounds;

(b) an estimate of such expenditure has been first submitted to and approved by the Minister.

Records and  
accounts to  
be kept by the  
river board.

37. (1) A river board shall keep such records, statistics, registers, and accounts as are prescribed by regulation, and shall prepare and transmit to the department such returns and reports as the Minister may from time to time require; and in particular a river board shall transmit to the department, as soon as may be after each thirtieth day of June, financial statements made up to such date and in the form prescribed by regulation, showing—

(a) receipts and expenditure of moneys on its revenue account; and

(b) receipts and expenditure of moneys on its capital or loan account.

(2) The financial statements so transmitted shall be placed before the Auditor-General of the Colony, who shall, in respect of the accounts of the board, have all the powers vested in him by law in respect of the public accounts of the Colony.

Power of river  
board to make  
bye-laws.

38. (1) A river board may, from time to time, make, alter or rescind bye-laws (not inconsistent with this Act or the regulations) prescribing—

(a) the procedure to be followed at its meetings;

(b) the powers and duties of its water-bailiff and other officers;

(c) the method of the diversion, distribution, and use of water under its control and the supervision thereof including provisions regarding the diversion, distribution and use of Sunday or night water;

(d) the method of assessment and collection of river rates; and generally as to any other matter or thing relating to its powers and duties.

(2) No such bye-law or any alteration or rescission thereof shall be valid until approved by the Governor and published in the *Gazette*; nor shall the same take effect until one month after notice of intention to apply for approval has



been given by the board, by notice published in a newspaper circulating in its district and posted outside the door of its office.

(3) A river board shall supply copies of all bye-laws in force to any person on payment of a sum not exceeding one shilling per copy, and copies of all such bye-laws shall be open to inspection at the office of the board at all reasonable hours.

39. (1) Whenever it shall appear to the Minister that an order or act of any river board is calculated to infringe or detrimentally affect rights existing in the river district of another river board, or that a power exercisable by one river board can with advantage to the public interest be exercised by two or more river boards acting jointly, the Governor may constitute a joint committee to investigate the matter, and determine the action to be taken.

Joint committee to deal with matters affecting more than one river district.

(2) Such joint committee shall consist of two persons, nominated from its own members by each of the boards specified by the Governor and two persons together with a chairman appointed by the Governor.

(3) A joint committee constituted under this section shall have all the powers and jurisdiction which may be conferred on a commission by the Commissions Powers Ordinance 1902 and shall, so far as concerns the matter within the area for which it has been appointed, have all the powers and be subject to the same duties and obligations as a river board.

40. Any farm of which the Crown is the proprietor and any other property of the Crown within a river district (other than works constructed under the powers of Chapter I) shall be subject to the jurisdiction of the river board for such district, or the joint committee of two or more such districts; and save as is otherwise specially provided in this Act the Crown, as a proprietor, shall have all the rights and be subject to all the obligations conferred or imposed upon proprietors under this Act.

Crown farms subject to the jurisdiction of the river board.

(e) *Co-operative Irrigation Societies.*

41. (1) The Governor may, upon the written request of any society registered under the Co-operative Agricultural Societies Act 1908, or any amendment thereof, and having for its objects the construction or maintenance of irrigation works for utilizing the water of streams other than public streams, apply to such society as regards its members and such works the provisions of section *thirty-eight*.

Section *thirty-eight* of this Act may apply to Co-operative Irrigation Societies.

(2) No such provisions shall be applied unless the Governor is satisfied that two-thirds of the members of the society in general meeting have passed a resolution in favour of the application of such provisions.

(f) *Saving Provisions.*

42. Notwithstanding anything in this Chapter contained, the area comprising the Municipality of Pretoria and any property or rights belonging to the Council thereof shall not

Exemption of Pretoria Municipality from jurisdiction of river board.

be included in a river district or be subject to the jurisdiction of any river board or of the Minister acting as a river board.

Exemption of  
Rand Water  
Board from  
jurisdiction of  
river boards.

43. The powers and jurisdiction of every river board shall be exercised subject to rights lawfully acquired or exercised prior to the coming into operation of this Act by the Rand Water Board under the Rand Water Board Statutes 1903 to 1906.

### CHAPTER III.

#### USE OF PRIVATE AND PUBLIC WATER.

Private  
streams and  
water.

44. (1) Every proprietor shall be entitled to use exclusively and without restriction all water rising naturally on the land held by him, in so far as such water has not reached a public stream or does not form the source or part of the source of a public stream.

(2) All water which falls or naturally drains on to the surface of land shall be the sole and undisputed property of the proprietor thereof, as long as it remains upon such land and does not join a public stream.

Public water  
and use of  
public  
streams.

45. All water which joins or forms part of a public stream shall be public water, the use of which shall, subject to rights lawfully acquired, be regulated by this Act. There shall be no right of property in public water save as is otherwise provided in section *forty-eight* in respect of surplus water.

Primary  
secondary and  
tertiary uses  
of public  
water.

46. (1) Public water shall be subject to primary, secondary, and tertiary uses.

(2) The primary use of public water shall be the use necessary for the support of animal life, and in the case of use by riparian proprietors, the use necessary for domestic purposes.

(3) The secondary use of public water shall be the irrigation of land under cultivation.

(4) The tertiary use of public water shall be for mechanical or industrial purposes.

(5) An upper riparian proprietor shall not be entitled to the secondary use of public water, if he thereby prevents its primary use by any lower riparian proprietor who, prior to the coming into operation of this Act, has ordinarily had such primary use.

(6) Subject to the provisions of this Act and to rights lawfully acquired, an upper riparian proprietor shall be entitled to divert a reasonable quantity of public water for its primary and secondary use, provided he does not infringe the rights of any lower riparian proprietor to such use and returns the same at a definite place to the public stream with no diminution other than is caused by such use.

In determining what is a reasonable secondary use regard shall be had to the relative extent of the upper riparian and lower riparian farms, the area and situation of ground

cultivated and capable of being cultivated, the extent of river frontage of each riparian farm, the method of user, the flow of the public stream and the rainfall over an area.

(7) The tertiary use of public water by an upper riparian proprietor shall be subject to reasonable secondary use of public water by all lower riparian proprietors who, prior to the coming into operation of this Act, have ordinarily had such secondary use.

(8) No person shall have the use of public water to develop water power greater than ten horse power without the permission of the Governor or of the river board which may, subject to the provisions of this Act or the regulations and with the approval of the Governor, permit such use on terms and conditions to be specified by it.

47. (1) If the river board is satisfied that during any period of a year all the water of a public stream cannot be utilized by all the riparian proprietors, it may grant written permission for the diversion, during such period, of the surplus water of such stream—

Diversion of surplus water of public streams on to non-riparian farms or across the watershed.

(a) on to non-riparian farms within the catchment area of such stream; or

(b) across the watershed of such stream into another catchment area in which the surplus water can be usefully employed for irrigation or other purposes.

Provided that

(i) a riparian proprietor is not thereby deprived of water necessary for land which is, at the time, under irrigation, or might thereafter reasonably be expected to be brought under irrigation;

(ii) in the grant of the permission, preference shall be given to the farms described in paragraph (a) of this subsection.

(2) The permission may be granted upon application made to the river board in accordance with regulation and shall not be valid until confirmed by the Minister and the diversion of surplus water from a public stream shall not be lawful unless such permission has been granted.

48. (1) Written permission may be granted by a river board, subject to the provisions of this Act or the regulations, to any person to store the surplus water of a public stream and the storage of surplus water in a public stream shall not be lawful unless such permission has been granted.

Storage of surplus water under permit.

(2) An appeal shall lie to the Minister against the grant or refusal of such permission.

(3) Every person authorized under this section to store surplus water shall be entitled to the property in such water and notwithstanding that the surplus water so stored be left to mingle with the other water in a public stream.

49. (1) Any diversion or storage of surplus water under the last two preceding sections shall be at a place described in the permission, which shall also specify—

Determination of place of diversion or storage.

(a) in the case of diversion the line of passage of the water;

- (b) the nature of the diversion or storage works;  
 (c) the amount of compensation (if any) to be paid to any proprietor on whose farm it is stored or through or over whose farm the surplus water is diverted or conveyed for storage.  
 (d) the amount of surplus water which may be stored or diverted.

(2) The river board shall not grant any permission for the diversion or storage of surplus water if the grant would interfere with the use, enjoyment or exercise of any permission or right to divert or store surplus water previously granted or held under the Act unless the consent of the holder of the permission or right has been obtained.

Rights of proprietors on change of course of public stream.

50. (1) Whenever a public stream, which formed the boundary between two or more farms, changes or has changed its course the boundaries of such farms shall not be thereby changed nor shall a change in the course of such stream constitute a riparian proprietor a non-riparian proprietor.

(2) Such riparian proprietor may apply to the river board to fix a point or points on the changed course of the stream to which he shall have access and at which he may take the water thereof subject to the provisions of section *forty-six*, and to further fix the line along which such water may be so diverted and taken. The river board may grant the application on such terms as to it may seem just.

(3) Whenever a riparian proprietor has been injuriously affected by any such change in the course of a public stream, he may make written application to the river board for permission to construct works necessary to restore the stream to its former course.

(4) The river board shall, if satisfied that the riparian proprietor has been so injuriously affected, and subject to any rights lawfully acquired in respect of the changed course, grant the permission, but may attach thereto conditions as to the nature of the work to be constructed and the time within which it shall be completed.

## CHAPTER IV.

### USE OF SUBTERRANEAN WATER.

Presumption of fact in case of subterranean water in dolomite formation.

51. All subterranean water in the dolomite formation shall, until the contrary is proved, be presumed in courts of law and other places to flow in defined channels.

Use of subterranean water.

52. (1) The proprietor of every farm shall be entitled to abstract any subterranean water thereunder for his own use, for any purpose.

(2) The proprietor of a farm shall not be entitled, without legislative sanction, to dispose of subterranean water

derived from the dolomite formation, nor to convey it, after it has been abstracted, beyond the limits of his farm; provided that the holder of mining title may take steps for removing to any place any subterranean water from a mine worked by him, if necessary for the efficient working of the mine or the safety of persons employed therein, and may with the consent of the Governor dispose of such water.

(3) Any superior court may, upon application, interdict any person from abstracting subterranean water if thereby substantial interference with the water supply of a town or any populated area is probable; provided that if the court, on such application, grant a perpetual interdict, the operation of such interdict may be suspended pending the payment by the applicant to the person to be interdicted of compensation on the basis of the value to such person of the use of the water of which he is actually deprived and to which he is entitled, the amount of compensation being determined in the absence of agreement by arbitration.

(4) Nothing in this Chapter contained shall affect any rights lawfully acquired or exercised prior to the coming into operation of this Act, under the Rand Water Board Statutes 1903 to 1906.

## CHAPTER V.

### WATER COURTS.

53. (1) Whenever a dispute arises between two or more river boards or between a river board and any person, or between any two or more persons, in relation to the diversion, use, storage or other appropriation of public water, or whenever a claim to a servitude is made under Chapter VI of this Act, or whenever any other dispute or claim is under this Act to be determined by a water court, the Governor shall, upon the application of any party to the dispute or the claimant (as the case may be), constitute a special court (called a water court) to hear and determine the dispute or claim.

Constitution  
of water  
courts.

(2) A water court shall consist of three persons to be appointed by the Governor, one of whom (being in every case a judge of the Supreme Court, a resident magistrate, or an advocate or attorney of the Supreme Court) shall be president of the water court. Each of the other two members of the court shall possess fixed property within the Colony of the value of five hundred pounds at least. The members of a water court other than a judge or magistrate shall receive remuneration in accordance with a tariff of fees to be prescribed by the Governor.

(3) No member of a water court shall be related within the third degree of consanguinity or affinity to any party to the dispute, or shall be a person interested in the claim to be determined, or if any river board is a party to the dispute or interested in the claim to be determined, no member of such court shall be a member or officer of such board.

(4) Notice constituting the court and specifying the members thereof, and the date and place at which it will sit, shall be published in the *Gazette* and in a newspaper circulating in the magisterial district or districts in which the dispute or matter has arisen.

Exclusive jurisdiction of water courts in the first instance.

54. Save as is otherwise provided in this Act, a water court, constituted to hear and determine a dispute or claim, shall have exclusive jurisdiction in the first instance to hear and determine the same, and no process shall issue out of any other court involving a question arising on the dispute or claim as soon as it shall have been notified in the *Gazette* that a water court has been constituted to hear and determine the same and if any such process has been issued prior to its being notified that a water court has been constituted to hear and determine the dispute, such process, and all proceedings thereunder shall *ipso facto* stand referred to such water court.

Procedure before the water court.

55. (1) Any party to a proceeding before a water court may appear—

(a) in person, or by a person authorized by him under power of attorney; or

(b) by an advocate or attorney of the Supreme Court or a duly admitted law agent;

and any local authority or river board may appear by its mayor, chairman, town clerk, secretary, or similar officer nominated by it for the purpose, and any company may appear by one of its directors or its secretary or other of its officers nominated for the purpose.

(2) At the date, hour, and place fixed by the notice mentioned in section *fifty-three* the water court shall sit and hear the evidence and arguments of every party to the proceedings, and may adjourn its sitting from time to time or from place to place on giving to the parties reason for the adjournment and adequate notice of the time and place of its next sitting.

(3) If at any stage of the proceedings a question of law arises which, in the opinion of the water court, it is desirable to have finally determined, it may state such question in writing in the form of a special case for the decision of the Supreme Court, and the rules of the Supreme Court as to special cases in an action before it shall *mutatis mutandis* apply to the form of a special case stated under this subsection. The case stated shall be transmitted to the Registrar of the Supreme Court and the question may be answered by such Court or a judge thereof, with or without argument on behalf of the parties, as such Court or judge may determine, and such Court or judge may require the water court to furnish any further particulars before answering the question. The Registrar of the Supreme Court shall, as soon as the question submitted has been answered, transmit the answer to the water court, which shall, in making an order or award in the proceedings before it, adopt and apply the law so laid down by the Supreme Court.

56. (1) A water court shall make such order or award on any proceedings, brought before it as it shall think just, and the costs of any such proceedings shall be in the discretion of the court, and shall be taxed and recoverable in manner prescribed by regulation; provided that such court shall not in any order for payment of costs include any sum for the payment of fees other than witness fees to any person who is not an advocate attorney or duly admitted law agent.

Order or  
award of  
water court.

(2) The order or award shall be reduced to writing, and a copy thereof certified by the president or the other two members served upon each party to the proceedings, and upon every other person who, in the opinion of the water court, is materially affected thereby. The order or award shall be binding on the parties to the proceedings, unless or until it is set aside or altered on appeal under the next succeeding section.

(3) An order or award of the water court for the payment of money by a party shall have the same effect as an order of the Supreme Court, unless and until set aside or altered upon appeal under the next succeeding section, provided that the water court may grant stay of execution pending the determination of such appeal on such terms and conditions as it thinks just.

57. (1) Any party and any other person upon whom a certified copy of the order or award of the water court is served under sub-section (2) of the last preceding section, may, if aggrieved thereby, appeal to the Supreme Court against such order or award.

Appeals  
against order  
or award of  
water court.

(2) Every appeal under this section shall be prosecuted in manner prescribed by law for appeals to the Supreme Court against a civil judgment or order of a court of resident magistrate, save that the period within which such appeal shall be noted, shall be two months from the date of the order or award, or within such further time as the Supreme Court may, upon application, allow.

(3) Upon the hearing of the appeal the Supreme Court may confirm, reverse, or vary the order or award, or may remit the proceedings to the water court with such instructions relative to further proceedings to be had and taken as the Supreme Court may think fit to give, and it may, upon the appeal, make such order as it may think just as to costs of the appeal or of the original proceedings in the water court.

(4) In addition to the jurisdiction conferred upon it by sub-section (3), the Supreme Court may, if one of the grounds of appeal is that the order or award of the water court is against the weight of the evidence, upon the application of either party to the appeal or of its own motion, order the dispute or claim to be heard and determined by any judge of the court at such place at or near the locality where the dispute or claim arose, as the Supreme Court may determine. The decision of such judge upon the dispute or claim shall be final, and no appeal shall lie from such decision, provided

that such judge may, on his own motion or at the request of any party to the dispute or claim, reserve any question of law that may arise thereon for the decision of the Supreme Court which shall hear and determine such question with or without argument as it may deem fit, and remit the proceedings to such judge with its answer to the question raised, or give such judgment as ought to have been given at the trial, or make such other order as justice may require.

Registration  
of orders and  
awards  
against title.

58. (1) If, within the two months fixed by the preceding section or within the further period therein mentioned, no appeal shall have been noted, or, having been noted, has been dismissed, the order or award of the water court shall, at the instance of any person interested, be registered against the title to any farm to which the order or award refers and the proprietor of any farm to which the order or award refers shall upon request produce his title deeds for the purposes of the registration.

(2) Any order made by the Supreme Court, whether on appeal or otherwise, under this Act, shall likewise be registered against the titles to farms affected by such order.

(3) The costs of registration shall, unless the water court or Supreme Court otherwise orders, be borne by the unsuccessful party to the proceedings.

Circum-  
stances in  
which  
jurisdiction  
of water  
court or  
Supreme  
Court ousted.

59. (1) Notwithstanding anything in this Chapter contained, the parties to any dispute or claim which, under this Act, may be determined by a water court, may agree in writing with each other—

(a) to submit the question in dispute to the Chief Engineer or other arbitrator who shall cause investigation to be made and make such order or award thereon as he may think just, and, in holding such investigation, he shall have all the powers and jurisdiction, and be subject to all the duties conferred and imposed by this Act upon a water court, and any order or award made by him shall be as binding on the parties and be subject to appeal in the same manner and on the same conditions as the order or award of a water court; or

(b) to obtain by action or other proceedings in a circuit court or in the Supreme Court a decision of the matter in dispute without first obtaining the decision of a water court, and in such event the provisions of section *fifty-four* shall not apply, but the Supreme Court after the close of pleadings in such action may exercise the powers conferred by sub-section (4) of section *fifty-seven* upon it in respect of appeals from a water court;

(c) to accept as final the decision either of a water court, a circuit court, or of the Supreme Court.

Any such agreement shall be lodged with the registrar of the Supreme Court and judicial notice shall be taken by every water court and by every court of law of such agreement or a copy thereof certified by such registrar.

(2) For the purposes of this section the Witwatersrand High Court shall be deemed a circuit court.



60. Save as is otherwise provided in this Chapter, the procedure to be observed by a water court in hearing and determining any dispute or claim, shall be as nearly as circumstances will allow in accordance with the law and rules for the time being governing procedures in civil cases in courts of resident magistrate. A water court shall, for the purposes of the review of its proceedings under section *nineteen* of the Administration of Justice Proclamation 1902, be deemed an inferior court.

Magistrate's court procedure to be observed as far as possible in water courts.

## CHAPTER VI.

### SERVITUDES WHICH MAY BE ACQUIRED UNDER THIS ACT IN RESPECT OF WATER.

61. Any person who, having a proprietary interest in or the right to use water, or being entitled to supervise or control the use of water, may, subject to his willingness to pay compensation as hereinafter provided, claim temporarily or in perpetuity a servitude of passage of water, a servitude of storage, or a servitude of abutment, or all such servitudes; provided that—

Rights of servitude.

(a) the period of a temporary servitude shall not exceed three years;

(b) no proceedings shall be taken for the acquisition of any such servitude while legal proceedings are pending as to the right to the water in respect of which the servitude is claimed;

(c) no such servitude shall give the person acquiring it a proprietary interest in the land on, over, or through which it is exercised, and the proprietor of any such land shall remain subject to any encumbrance attaching to it.

62. (1) "Servitude of storage" shall mean the right to occupy the land of another by submerging it with water by means of a dam or weir or other works, and shall include a right of passage over the land and along the boundary of and throughout the particular area subject to the servitude, for the purpose of maintaining and cleansing such works, or for any other purpose necessary for the effective enjoyment of the servitude.

Servitude of storage.

(2) A servitude of storage shall not, subject to the terms of any award or agreement establishing it, deprive the proprietor of the area subject to the servitude of the use of that part of the area which is not submerged; provided such use is not detrimental to the enjoyment of the servitude.

(3) A servitude of storage shall give the holder thereof a prior claim to surplus water over servitudes subsequently acquired.

(4) When a permanent servitude of storage has been acquired by a proprietor over the land of another proprietor, the latter named proprietor may, before the commencement of the storage-work and on payment of his proportion of the cost

thereof (to be determined in case of dispute by arbitration), demand, and thereafter shall be entitled to receive, the benefit of the storage-work in the proportion which the capacity of that part of the reservoir, which is on the land subject to servitude, bears to the total capacity of the reservoir.

Servitude of passage of water.

63. (1) "Servitude of passage of water" shall mean the right to occupy so much of the land of another as may be necessary for or incidental to the passage of water, and shall include a right to construct on such land irrigation works necessary for such passage over, under, or alongside another irrigation work, or to enlarge an existing irrigation work.

(2) The servitude shall include the right of access to any piece of land (after giving notice to the proprietor thereof) for the purpose of constructing, inspecting, maintaining, and repairing such works.

(3) The servitude shall be subject to the duty of passage of water along such works by any proprietor on or over whose land the servitude exists, on payment of such proportion of the cost of constructing and maintaining such works as may be agreed, or, failing agreement, as may be determined by arbitration.

(4) In exercising such servitude across a public road, the holder thereof shall construct such works as will prevent danger or inconvenience to the public, and shall keep the same in repair, the manner of construction and repair being prescribed by the Minister for Public Works or the local authority (according as such road is under the control of the Government or a local authority).

Servitude of abutment.

64. (1) "Servitude of abutment" shall mean the right to occupy, by means of a dam or weir, the bed or banks of a public stream or land adjacent thereto, belonging to another:

(2) The proprietor, on whose ground a servitude of abutment exists, may, before the construction of the dam or weir is commenced, demand and thereafter shall be entitled to lead water therefrom, on paying to the holder of the servitude such proportionate cost of the dam or weir as may be agreed, or, failing agreement, as may be determined by arbitration.

Servitude to include right to take materials for works.

65. Every servitude in this Chapter described shall include a right to take materials from the land on or over which the servitude exists for the purpose of constructing, maintaining, or repairing any irrigation works thereon.

Person who acquires right to use works by paying proportionate cost to be proportionately liable for repairs.

66. A person who, by paying a proportion of the cost of constructing any irrigation work, as provided in sections *sixty-two*, *sixty-three*, or *sixty-four*, has acquired the right to use the same, shall be liable to pay a like proportion of the cost of its maintenance and repair until he shall in writing have surrendered such right of user and three months shall have expired after the surrender.

Duty of proprietor to construct bridges, etc., for communication for other proprietors.

67. Every person who, under this Chapter constructs works for the passage of water which—

(a) prevents any proprietor passing freely over or on to his land; or

(b) checks the circulation of water in the irrigation or drainage of such land,  
shall construct and maintain in repair—

- (i) such bridges and other works as will make communication safe and convenient, and
- (ii) such culverts, aqueducts, and other works as are necessary to secure the free circulation of such water, unless he shall be exempt from such duty by agreement or other lawful cause.

68. (1) A servitude described in this Chapter may be claimed by serving written notice upon the proprietor of the land on or over which the servitude is desired, demanding the servitude and specifying the following particulars, namely—

Mode of acquiring servitudes.

- (a) the line of passage along which the water is to be conducted or diverted;
- (b) the locality on which the water is to be stored;
- (c) the nature and locality of the works to be constructed;
- (d) the compensation offered;
- (e) the period of the servitude.

(2) If such proprietor shall not, within one month after service of such notice, agree to the claim and the particulars specified in the notice, the claimant may apply to the Minister for the constitution of a water court to hear and determine his claim, and shall serve a copy of the application upon such proprietor.

(3) If the land over which the servitude is claimed is subject to a mortgage or lease, the claimant shall further serve upon the mortgagee or lessee (as the case may be) the notice and copy of application required to be served on the proprietor.

(4) Every such mortgagee or lessee shall have the right to appear as a party before the water court on the hearing of the claim and shall have all the privileges belonging to and be subject to all the obligations imposed or which may be imposed on a party before a water court by this Act or the regulations.

69. (1) The water court, upon the hearing of such claim, may—

Jurisdiction of water court as to claims for servitudes.

- (a) award the same, with or without modifications and subject to such conditions as it deems just;
- (b) award, or refuse to award, compensation for the right of servitude granted;
- (c) if the land, over which the servitude is claimed, is subject to a lease, award compensation to the lessee for any loss or damage he is likely to sustain by the exercise of the right of servitude;
- (d) if the land, over which the servitude is claimed, is subject to a mortgage and the mortgagee claims a share of any compensation awarded, determine the claim of the mortgagee and the amount (if any) of his share of the compensation;
- (e) dismiss the claim, but on the following grounds only, namely—

- (i) that the servitude claimed does not fall within the provisions of this Chapter; or
- (ii) that the object for which the servitude is claimed could be better attained in another manner; or
- (iii) that the claim is not made in good faith; or
- (iv) that the works appertaining to the servitude claimed are not of sufficient agricultural or other utility to justify the acquisition of the servitude; or
- (v) that the works appertaining to the servitude will interfere with any irrigation scheme of the department or the river board, or generally with the development of irrigation in the locality; or
- (vi) that the damage likely to be caused by the proposed works would be greater than the benefits that would be derived therefrom.

(2) Compensation awarded by a water court for a temporary servitude shall not exceed an annuity equal to the rental value (as nearly as can be ascertained) of the land to be actually occupied by the work contemplated, together with an annual sum for actual inconvenience or loss likely to be suffered by the exercise of the right of servitude.

(3) Compensation awarded by a water court for permanent servitude shall not exceed an amount equal to the average market value (as nearly as can be ascertained) of the land to be actually occupied by the work, together with an annuity for actual inconvenience or loss that may be suffered by the exercise of the right of servitude, or, in lieu of such annuity, an amount equal to twenty times such annuity.

Conversion of temporary into permanent servitudes.

70. A person who, under this Chapter, holds a temporary servitude, may claim an award of the water court converting it into a permanent servitude subject to the payment of such compensation to the proprietor of the land on or over which the temporary servitude exists as may be determined by the water court. The provisions of sections *sixty-eight* and *sixty-nine* shall, so far as applicable, apply to a claim for conversion under this section.

Lapse of servitude.

71. Any servitude acquired under this Chapter shall lapse if the work specified in the particulars of the claim be not completed within three years from the date of acquisition by agreement or of the award of the water court or within any extended period that may be agreed or that the water court may have fixed on the hearing of the claim.

Registration of servitudes.

72. No servitude acquired or awarded under this Chapter shall be recognised until registered in accordance with regulation at the office of the river board and against the title to the land on or over which it has been so acquired or awarded, and the Registrar of Deeds shall, upon production of a certified copy of the award of the water court, register the servitude described therein on the titles to the land in favour of and over which it has been so acquired or awarded. The proprietor of the land over which such servitude has been so acquired or awarded may be compelled by order of the water

court to produce his title deeds for the purposes of the registration. Nothing in this Chapter contained shall affect servitudes or other rights acquired by the Railway Administration of this Colony by expropriation or otherwise either before or after the passing of this Act.

## CHAPTER VII.

### LOANS, SUBSIDIES AND GRANTS-IN-AID FOR IRRIGATION PURPOSES.

73. (1) The Governor may from time to time advance money on loan to a river board or to any proprietor for the construction of any work which under this Act a river board or proprietor is authorized to construct or to enable a proprietor to pay compensation awarded by a water court against him on acquiring a servitude under Chapter VI.

Loans by Governor to river boards and proprietors.

(2) The loan to a river board shall be upon the security of any rates levied and revenue acquired by it under this Act or such other security as the Governor may approve.

(3) The loan to a proprietor shall be upon the security of first mortgage of immovable property, the amount advanced not exceeding sixty per cent. of the value of such property as determined (at the cost of the proprietor) by two sworn appraisers appointed by the Minister.

74. (1) Application for a loan shall be made in writing to the Minister and shall state the object of the loan, the nature of any proposed works, the estimated cost of construction thereof, the position and extent of the land to be irrigated or drained, and the extent to which it is expected that the value of the land will be enhanced by the works; and,—

Mode of application for loan and particulars of same.

- (a) if the applicant be a river board, its existing liabilities shall be stated and a detailed account of its revenue and expenditure, and in particular, the extent to which the rates leviable by or the other revenues of the board have been encumbered or charged and the names and addresses of the persons entitled to the encumbrances or charges; and a certificate shall be submitted under the hand of its chairman that written objections to the proposal to raise a loan have not been made by the holders of more than one-third of the votes as determined by the voters' list of the river board in accordance with section *thirty-two*; and
- (b) if the applicant be a proprietor, the nature and extent of the property offered as security for the loan shall be stated.

(2) If the application is for an advance exceeding one hundred pounds, or if the enhanced value expected from the proposed works is an element of the security, plans of such works and an estimate of the cost thereof shall be submitted together with such other particulars as may be prescribed by regulation.

(3) The Minister may direct such further enquiry to be made as he deems necessary for determining the expediency or otherwise of advancing a loan, and, if the applicant is a proprietor, may, instead of submitting the application to the Governor, refer it to the Land and Agricultural Bank to be dealt with in accordance with the provisions of Act No. 26 of 1907 or any amendment thereof.

## CHAPTER VIII.

### GENERAL.

Right of entry upon land.

75. (1) The Minister, or any person or persons acting under his written authority, may, after notice to the proprietor, enter upon any land with such men, animals, vehicles, appliances, and instruments, and do all such acts thereon as are necessary for or incidental to the exercise of the powers conferred or the performance of the duties imposed by this Act upon the Governor, the Minister, or the department; provided that—

(a) no such engineer or person shall enter any building or any enclosed yard attached to a dwelling, except with the consent of the occupant thereof;

(b) as little damage as possible shall be caused to land by the exercise of the powers of this section and compensation shall be paid by the department for all damage so caused, the amount thereof, if not mutually agreed, being determined by arbitration.

(2) Members of a river board or a water court, or a person authorized in writing by the chairman of the board or the president of the court, shall to the extent necessary for carrying out its powers duties or jurisdiction of such board or court, have the right of entry upon land, with the powers incidental thereto, mentioned in sub-section (1) subject to the restrictions and obligations in the said sub-section provided.

(3) Any person who prevents such entry on land as is authorized by this section, or who wilfully obstructs or hinders any person so authorized in lawfully carrying out his powers or duties under this Act or the regulations shall be guilty of an offence.

Service of notices and document.

76. (1) Any notice, order, or other document required by this Act or a regulation to be served upon any person shall be deemed to be effectually served, if delivered personally to such person or left at or sent by registered post to his last known place of abode, or, whenever such person is absent from the Colony, if such notice, order, or document is published in the *Gazette*.

(2) A notice, order, or document required by this Act or a regulation to be served upon a river board shall be deemed to be effectually served if delivered or left at or sent by registered post to the office of the board or the residence of the chairman or secretary.

(3) A notice, order, or document issued under this Act or a regulation shall be valid according to the terms thereof, notwithstanding any want of form or of authority on the part of any person to issue or authenticate it, provided the authority is subsequently conferred upon such person.

77. (1) The regulations set forth in the Second Schedule to this Act or any additions to or alterations of such regulations made under sub-section (2) shall be the regulations referred to in this Act. Regulations.

\*(2) Additions or alterations may be made to the regulations by the Governor, and, when published by proclamation in the *Gazette*, shall be of the same force and effect as if they were in the said Schedule contained; provided that no such additions or alterations shall be in conflict or inconsistent with the provisions of this Act.

(3) All such additions and alterations shall, within seven days after their publication, be laid on the tables of both Houses of Parliament if Parliament be then in session, or if it be not then in session within seven days after the commencement of its next ensuing session. Such additions or alterations may be disallowed by resolutions of Parliament without prejudice to any act done, right acquired, or liability incurred thereunder before the disallowance.

78. (1) Any person who without lawful right or authority (the proof whereof shall lie upon him)— Offences and penalties.

(a) alters, enlarges, or obstructs an irrigation work or destroys, defaces, or moves any level mark, beacon or other structure or appliance erected or made in connection with such work;

(b) interferes with, or alters the flow of, or pollutes or fouls the water of an irrigation work or of a public stream, or interferes with the distribution of such water, or takes more water than he is entitled to, or uses it in a manner contrary to this Act or the regulations;

(c) while using or being liable for the maintenance of an irrigation work, wastes or does not take due precaution to prevent the waste of water from such work, or fails to properly maintain the work and keep it in repair;

(d) wastes the water of a public stream;

(e) aids or abets or knowingly permits any such act or default;

shall be guilty of an offence and liable—

(i) in the case of a first conviction to a fine not exceeding twenty-five pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding one month, or to both such fine and imprisonment;

(ii) in the case of a second or subsequent conviction to a fine not exceeding one hundred pounds, or in default of

\* Regulations in schedule were altered by Procs. (Admn.) Nos. 97 of 1908, 57 and 84 of 1909, and 22 of 1910.

payment to imprisonment with or without hard labour for a period not exceeding six months, or to both such fine and imprisonment.

(2) Any person who wilfully and maliciously does any of the acts mentioned in paragraphs (a) or (b) of sub-section (1) shall be liable to a fine not exceeding one thousand pounds, or to imprisonment with or without hard labour for a period not exceeding five years, without the option of a fine.

(3) Any person who contravenes any bye-law made by a river board, or a regulation, or commits an offence against this Act for which no penalty is expressly provided, shall be liable on conviction to a fine not exceeding twenty-five pounds, or in default of payment to imprisonment, with or without hard labour, for a period not exceeding one month.

79. Any fine recovered on a conviction—

(a) for a contravention of a bye-law made by a river board; or

(b) in respect of an irrigation work or public stream under the control or supervision of a river board

shall be paid into the revenues of such board.

80. (1) Whenever any person is convicted of an offence under this Act or the regulations by a court of resident magistrate, and it shall appear that such person has by that offence caused damage to any river board or proprietor, such court may at the written request of such river board or proprietor (as the case may be) but in the presence of the convicted person inquire summarily and without pleadings into the amount of damage so caused.

(2) Upon proof of such amount, such court shall give judgment therefor in favour of the river board or proprietor (as the case may be) and against the convicted person, and such judgment shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before such court; provided that—

(a) judgment shall not be given under this section for a sum exceeding one hundred pounds;

(b) if the judgment is in favour of a river board the convicted person shall be entitled to deduct from the amount of such damages the amount of any fine which under the last preceding section has been paid to such board in respect of the conviction.

81. Nothing in this Act contained shall be construed as derogating from any powers granted under the Railway Expropriation of Lands Ordinance of 1903 save that in the exercise of any powers conferred by section four sub-sections (a) (b) (c) and (g) or section eight of the Railway Expropriation of Lands Ordinance 1903 the officers of the railway administration of this Colony shall consult with the Minister; nor shall anything herein contained prevent the said Administration from acquiring from any proprietor the use of water from any public stream or subterranean water by expropriation or otherwise, or from leading such water from

Application of  
fines in  
certain cases  
towards  
revenues of  
river boards.

Power of  
court of  
resident  
magistrate on  
criminal  
prosecution to  
award  
damages  
summarily  
against  
accused and  
in favour of  
complainant.

Special  
provisions as  
to expropria-  
tion of water  
etc., under  
Ordinance  
No. 20 of  
1903.



one farm across any other farm or farms or from one watershed to another, provided such water is required for railway purposes and such other purposes as the Minister may approve.

82. All powers and jurisdictions exercisable under this Act by the Governor, the Minister, or a river board shall be exercised subject to all lawful rights existing or acquired prior to the coming into operation of this Act.

Saving of existing rights.

83. Nothing in this Act contained shall be construed as derogating from any powers or jurisdiction conferred by the Precious and Base Metals Act 1908 or any amendment thereof, upon the Minister of Mines or any Mining Commissioner, nor shall any proclaimed land (as by such Act defined) be included in a river district, and, if land in a river district becomes proclaimed land under such Act or an amendment thereof, the public streams within the land proclaimed shall cease to be subject to the jurisdiction of the river board of such district.

Saving as to powers of Mining Commissioner and as to proclaimed land.

84. This Act may be cited for all purposes as the Irrigation Act 1908 and shall come into operation on the first day of October 1908.

Title and date of operation of Act.

#### FIRST SCHEDULE.

##### RULES FOR DETERMINING QUALIFICATIONS OF RIVER VOTERS AND NUMBER OF VOTES WHICH EACH RIVER VOTER MAY RECORD.

1. Every riparian proprietor of irrigated land in the river district shall be entitled to be placed on the list of river voters prepared under section *twelve* or amended or revised under section *thirteen* of the Act, and if the river district be divided into wards, shall be placed upon the list for the ward in which such land is situate.

2. The number of votes which each riparian proprietor whose name is placed upon the said lists shall be entitled to record at an election of a river board shall be proportionate to the extent of irrigated land held by him, the proportion being fixed as follows:—

- |   |              |
|---|--------------|
| (a) Less than five morgen of irrigated land .. .. .       | one vote.    |
| (b) Five morgen and less than ten morgen .. .. .          | two votes.   |
| (c) Ten morgen and less than twenty-five morgen .. .. .   | three votes. |
| (d) Twenty-five morgen and less than fifty morgen .. .. . | four votes.  |
| (e) Fifty morgen and less than one hundred morgen .. .. . | five votes.  |
| (f) One hundred morgen or more .. .. .                    | six votes.   |

3. Where irrigated land is held jointly by two or more riparian proprietors neither or none of whom occupy separate and definite portions thereof, such proprietors shall agree amongst themselves which shall be entitled to be placed upon the list of voters in respect of such land and in case such proprietors are unable so to agree the magistrate framing, amending, or revising the list of voters shall determine the question.

4. The person whose name is to be placed on the list or amended or revised list where the Crown is the riparian proprietor, shall be a person nominated in writing by the Minister.

5. The person whose name is to be placed on the list or amended or revised list where a local authority is the riparian proprietor, shall be any person nominated by resolution of such local authority; and for the purpose of this Schedule when a local authority is entered on the list as a voter it shall be deemed to be the proprietor of all the irrigated land within its area of jurisdiction and no other proprietor shall be placed upon the list in respect of irrigated land within the area of jurisdiction of such local authority.

6. The person whose name is to be placed on the list or amended or revised list where a body corporate is the proprietor shall be a person nominated by or on behalf of such body.

7. No proprietor who is in arrear with river rates levied by the board under section *thirty-two* shall be entitled to have his name, or the name of any person on his behalf, entered on the list or amended or revised list (as the case may be) in respect of the land on which such rates have been levied.

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\* *SECOND SCHEDULE.*

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REGULATIONS MENTIONED IN THE ACT AND SPECIALLY IN  
SECTION *SEVENTY-SEVEN.*

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PART I.

ELECTION OF RIVER BOARDS.

*Regulations Made and Instructions Issued to Returning Officers in connection with the Election of River Boards, in accordance with sections eleven, twelve, thirteen, fourteen, and fifteen of the Act.*

1. In these regulations the expression "the Act" shall mean the Irrigation Act 1908, and any expression used in these regulations which is defined in section *two* of the Act shall have the same meaning as is for the purposes of the Act assigned to it by that section.

"List of voters" shall mean the list of persons entitled to vote for members of a river board prepared, amended or revised by the magistrate in accordance with section *twelve* of the Act.

2. A returning officer, who shall be the magistrate, shall be appointed by the Minister for every river district, and every such appointment shall be notified by the Minister in the *Gazette*. In such notice shall be set forth—

- (a) the number of persons to be elected members of the board for the river district, and if the river district be divided into wards, the number of persons to be elected for each ward;
- (b) the date, hour, and place at which the returning officer shall hold a public meeting for the nomination of candidates for election as members of the board for such district, and the hour of closing such meeting.

Such date shall be not less than twenty-one days after the date of publication of such notice.

3. The Minister shall transmit copies of such notice to the returning officer, who shall forthwith cause the same to be published in one or more newspapers circulating in the river district, and to be posted outside such conspicuous places in such district, or if the district is divided into wards, in each ward of the river district as he may determine (e.g. schools, post offices, magistrates' offices, and police stations).

4. Every nomination shall be in writing, in the form set forth in Annexure A hereto, and signed by the proposer and two seconders (all of whom shall be qualified voters for the river district, and if the district is divided into wards, then for the ward for which the candidate is to be nominated), and shall be accompanied if possible by a certificate in the form set forth in Annexure B hereto, signed by the person nominated to the effect—

- (1) that he accepts nomination; and
- (2) that to the best of his knowledge and belief he is qualified to be elected a member of the board for the river district for which he is nominated.

If it be impossible by reason of the absence of the person nominated or other sufficient cause to obtain the certificate at the time of the nomination, the proposer and seconders shall satisfy the returning officer that the person nominated accepts the nomination and is qualified to be elected a member of the board and the returning officer shall decline to accept the nomination unless he be so satisfied.

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\* As amended by Proc. (Admn.) No. 97 of 1908.

5. Nomination forms (accompanied, if possible, by such certificate) may either be handed to the returning officer on the day and at the place fixed by the notice aforesaid for the holding of the public meeting and before the close of such meeting, or may be transmitted to the returning officer by post or in any other way, and no nomination form received by the returning officer after the time prescribed by the next succeeding regulation for the closing of the public meeting shall be accepted as a valid nomination.

*On Nomination Day.*

6. The returning officer shall open the public meeting on the day and at the hour and place named in the notice mentioned in regulation *two* with a copy of the list of voters for the river district, or if the river district is divided into wards, a copy of the list of voters for each ward and, after orally declaring the number of persons to be elected members of the board for the river district for each ward thereof, he shall call for nominations of candidates to be so elected.

The returning officer shall close such meeting after a period of sixty minutes from the time of opening.

7. The returning officer shall examine all nomination forms handed to him or received by him as aforesaid with the list of voters for the district, and shall ascertain whether the proposers and seconders are duly registered as voters for such district, or if the river district is divided into wards, as voters for the ward in respect of which nomination is made. If in any case the proposer and the two seconders are so duly registered, and if the nomination form is accompanied by the certificate mentioned in regulation *four*, or the returning officer is satisfied as required in such regulation, he shall orally declare the person named on the form to be duly nominated. If in any case the proposer or either of the two seconders is not so registered, or if the nomination form is not accompanied by the certificate aforesaid, or the returning officer is not satisfied as aforesaid, he shall orally declare the nomination to be invalid.

8. If at the time prescribed for the closing of the public meeting the number of candidates for election duly nominated as aforesaid be not more than the number of persons to be elected for the river district or ward (as the case may be) the returning officer shall orally declare such candidates to be duly elected members of the board for the river district or for the ward (as the case may be) in the following words in English and Dutch :—

“I, ....., being the returning officer for the river district of..... do hereby declare that..... being persons duly nominated as candidates for the said district (or ward) as the case may be, have this day been duly elected members of the river board for the said district, no other persons having been duly nominated as candidates for the said district (or ward).”

The returning officer shall reduce to writing, sign and date such declaration, and cause the same to be forthwith publicly affixed outside the place where the meeting was held. He shall further, as soon as possible, transmit to the Minister by registered post a statement in the form set forth in Annexure C, showing the full names, occupations and addresses of the persons elected.

9. If the number of candidates for election duly nominated exceed the number of persons to be elected for the river district or ward (as the case may be) the returning officer shall forthwith fix a date (not being less than one month after the date of nomination) and place when and where a poll shall be completed, and shall orally give notice of such date and place and the hours during which the poll will be open. The returning officer shall further publish in one or more newspapers circulating in the river district and at such conspicuous places in such district, and if the river board be divided into wards, then in each ward, as he may determine, a notice in the form set forth in Annexure D, stating the place, date, and hours of the poll, the names, occupations and addresses of the persons duly nominated for election for the district or ward, as the case may be, and the number of persons to be elected therefor.

The returning officer shall further transmit to the Minister a copy of such notice.

*Between Nomination and Polling Day.*

10. As soon as possible after the day of nomination the returning officer shall cause to be sent by post to every person whose name appears on the list

of voters for the river district or ward (as the case may be) at the address given in such register, a voting paper in the form set forth in Annexure E, showing

- (1) the names of the candidates duly nominated for election for the river district or each ward (as the case may be) in alphabetical order ;
- (2) the addresses and occupations of such candidates ;
- (3) the number of persons to be elected for the river district or each ward (as the case may be) ;
- (4) the latest day and hour by which the completed voting paper is to be received by the returning officer ;

and there shall be inscribed on it in the top left-hand corner, and in the spaces left for the purpose, the name of the voter and the serial number of the entry of that name in the list of voters for the district or ward (as the case may be) in which he is registered as a voter.

Every such voting paper shall before its issue be stamped through by means of a perforating stamp with a distinctive mark for the river district, or for the ward (as the case may be).

11. The returning officer shall send with every such voting paper

- (1) a copy of the instructions to voters set forth in Annexure F hereto, and
- (2) an envelope in the form set forth in Annexure G hereto to enable the voter to return by post without expense to himself the voting paper to the returning officer.

12. The returning officer shall not open any such envelope or any other cover which shows on the face of it that it contains a voting paper, or any voting paper not covered received by him, but shall place unopened all such envelopes, covers or uncovered voting papers as soon as they are received in a locked ballot box, sealed in such a way that the key cannot be inserted in the keyhole without breaking the seal and having an aperture in the lid to allow voting papers to be inserted ; and he shall keep the key of such box in his own possession until the box is opened for the counting of votes as hereinafter prescribed.

13. If a voter inadvertently spoil the voting paper sent to him by marking it wrongly, tearing it or in any other way dealing with it so that it cannot conveniently be used as a voting paper, he may return the paper to the returning officer who shall, if satisfied of such inadvertence, and on the return to him of the spoiled paper, but not otherwise, give the voter another voting paper marked and inscribed as prescribed in regulation *ten*.

Every spoiled paper so returned shall be endorsed with a note to the effect that a fresh voting paper has been issued to the person named on it, and shall be preserved separately by the returning officer for the period and under the conditions prescribed by regulation *twenty-six*.

14. It shall be lawful for any candidate duly nominated for election to sign and deliver to the returning officer, not later than three days before the polling day, a notice of his retirement, and the returning officer shall, if by such retirement the number of candidates for election for the river district or ward, as the case may be, is reduced to a number not exceeding the number of persons to be elected therefor, proceed as follows :—

- (1) He shall forthwith publish in one or more newspapers circulating in the river district and in such other manner throughout the river district or ward (as the case may be) as he may think fit, a notice that no poll will be completed in consequence of such retirement.
- (2) He shall on the day fixed for the completion of the poll declare the remaining candidates to be on that day duly elected for the river district or ward (as the case may be) by orally pronouncing the following words in public outside the place at which the public meeting for the nomination of candidates was held :—

“ I, ....., being the returning officer for the river district of....., do hereby declare that..... being persons duly nominated as candidates for the said district (or for the..... ward of the said district), have this day been duly elected members of the river board of the said district (or for the..... ward of the said district), one A.B. (and one C.D., etc.) duly nominated as candidate (or candidates) as aforesaid having delivered me notice (or notices) of his (or their)

retirement from his (or their) candidature and there being no other persons duly nominated as candidates for such district (or ward, as the case may be)."

- (3) He shall reduce to writing, sign, and date such declaration, and cause the same to be forthwith publicly affixed outside the place where such public meeting was held.
- (4) He shall as soon as possible after such declaration transmit to the Minister by registered post a statement in the form set forth in Schedule C, showing the full names, occupations, and addresses of the persons elected, and if the river district is divided into wards, for the particular wards for which they have been severally elected.

#### *At the Poll.*

15. On the day fixed for the completion of the poll, the returning officer shall, at 8 a.m., remove to the appointed place the boxes used for the reception of voting papers under the provisions of regulation *twelve*, and shall take his seat at such place provided with

- (a) copies of the list of voters for the district, and if the river district is divided into wards, with copies of the list of voters for each ward of the district, and
- (b) a supply of voting papers for the use of any voters who may have spoiled the voting papers sent to them by post.

16. The returning officer, shall make such arrangements as he may deem necessary for keeping order at the polling place, and shall not allow any person to enter therein other than

- (1) the assistants he may require ;
- (2) the candidates and any person (not exceeding one for each candidate) appointed in writing by a candidate to represent him ;
- (3) persons who desire to return completed voting papers which have been sent to voters under regulation *ten*.

17. The returning officer shall place in the boxes used for the retention of voting papers all voting papers which may under the last preceding regulation be returned to him before the hour when the poll is closed.

18. Subject to the provisions of regulation *thirteen* the returning officer may at the polling place issue to any voter a new voting paper and, in the case of a river district divided into wards, for the particular ward for which he is registered as a voter, in place of a spoiled voting paper returned by such voter.

19. The poll shall close at 2 p.m. precisely, and no person shall be admitted to the polling place nor shall the returning officer accept any returned voting paper after that hour, provided that any voter admitted to the polling place before that hour shall be permitted to record his vote.

#### *The Counting of Votes.*

20. Immediately after the close of the poll the returning officer shall proceed as follows :—

- (1) He shall personally open every box used for the reception of voting papers, first observing whether the seals of each box are intact, and cause to be removed therefrom all voting papers.
- (2) He shall cause his assistants to examine all the voting papers and sort them according to the wards for which the voter is registered and set aside for his decision all papers which apparently
  - (a) do not bear the perforated mark ; or
  - (b) purport to give votes for more candidates than there are persons to be elected, or to record a greater number of votes than he is entitled, according to the voters list, to record ;
  - (c) are unmarked or so marked that it is uncertain for which candidates the voter intended to vote ; or
  - (d) are not signed by the voter or by some person on his behalf under the provisions of regulation *twenty-nine* ;
  - (e) are signed by a voter not registered for the ward (if any) in respect of which he has recorded votes.
- (3) He shall personally examine all voting papers so set aside and decide which of them are to be accepted or rejected, after listening to any objections or arguments put forward by any candidate or his authorized representative for or against such acceptance or rejection.

- (4) He shall endorse on every voting paper he decides to reject the word "Rejected".
- (5) He shall enclose all voting papers which he decides to reject, with a statement showing the number of such papers signed by himself, in a sealed packet on the cover of which he shall endorse the words "Voting Papers Rejected" over his signature and the date.
21. Any voting papers which—
- (1) do not bear the perforated mark ; or
  - (2) purport to give votes for a greater number of candidates than there are persons to be elected, or to record a greater number of votes than he is entitled, according to the voters list, to record ;
  - (3) do not purport to give a vote to any candidate ; or
  - (4) are so marked that it is uncertain for which candidates the voter intended to vote ; or
  - (5) are not signed by the voter or by some person on his behalf under the provisions of regulation *twenty-nine* ;
  - (6) are signed by a voter not registered for the ward in respect of which he has recorded votes ;

shall be invalid and shall be rejected by the returning officer, provided that in the case described in sub-section (4) hereof the voting paper shall, if for other reasons it is not invalid, be rejected only so far as concerns those candidates as to the voting for whom there is an uncertainty.

22. The returning officer shall then count the votes recorded on the remaining voting papers which he has accepted as valid in the following manner :—

- (1) He shall cause to be prepared a schedule showing the names of the candidates for the river district or for each ward thereof, as the case may be, one below the other in alphabetical order.
- (2) He shall cause the number of votes marked on each paper to be written across the face thereof in red.
- (3) He shall cause to be read out from each voting paper the names of the candidates for the river district or for each ward thereof (as the case may be) for whom votes are recorded in alphabetical order and shall cause the appropriate marks to be placed on the schedule or each schedule against the name of each such candidate showing the number of votes recorded for him in accordance with these regulations.
- (4) He shall cause the marks against the name of each candidate on the schedule to be totalled and shall check the sum of such totals with the sum of the numbers written across the face of voting papers as in sub-section (2) hereof prescribed.

The candidates who have received the greatest number of votes (according to the number of members to be elected for the board for the river district, or, as the case may be, for the wards within the river district) shall be deemed to have been elected members of such board, and, as the case may be, for the ward for which he has received the greatest number of votes.

23. In the event of the number of votes recorded for two or more candidates being equal and in the further event of such equality affecting the result of the election of the river board of a river district or a ward thereof, as the case may be, the returning officer shall determine such result in the following manner :—

One of such candidates or his authorized representative (or if none of such candidates or representatives are present or willing so to do then one of the returning officer's assistants) shall write on separate slips of paper of identical shape, size, and appearance the name of each such candidate ; such slips of paper shall be rolled up and put into a closed receptacle to be held by the returning officer and another of such candidates or his authorized representatives (or if none of such candidates or representatives are available or willing so to do, then another of the returning officer's assistants) shall draw out one or more of such slips as may be required to complete the number of persons to be elected. The candidate or candidates named on the slip or slips so drawn out shall be deemed elected members of the board for the river district, and, as the case may be for the ward.

#### *Declaration of Poll.*

24. (1) Immediately after the result of the poll has been ascertained in the manner aforesaid, the returning officer shall declare such result by orally pronouncing in English and Dutch inside and outside the polling place the following words :—

“ I, ....., being the returning officer for the river district of ....., do hereby declare that I have in accordance with law ascertained the result of the polling for the said ..... or, as the case may be for the ..... ward of the said river district, and there have been recorded

for C.D. .... votes,

for E.F. .... votes,

for G.H. .... votes,

for J.K. .... votes,

for L.M. .... votes,

for N.O. .... votes,

and (the result of the election between G.H. and J.K. having been determined by lot as by law prescribed, and such determination by lot having resulted in favour of the said J.K.) I do therefore declare the said C.D., E.F., J.K., L.M., and N.O. to be this day duly elected members of the river board for the river district of .....” (or, as the case may be, “ for the ..... ward of the river district of ..... ”).

(2) The returning officer shall forthwith reduce to writing and sign and date such declaration and cause such declaration so reduced to writing to be forthwith affixed outside the polling place.

The persons declared to be duly elected in accordance with this paragraph shall thereupon be deemed to be duly elected.

#### *After Declaration of Poll.*

25. As soon as the returning officer has declared the result of the poll as aforesaid he shall proceed as follows:—

(1) He shall enclose all the voting papers he has accepted with a statement showing the number of them signed by himself in a separate sealed packet, or in the case of a river district divided into wards, in a separate sealed packet for each ward, on the cover of which he shall endorse the words “ Voting Papers Accepted ” over his signature and the date and the name of the ward (if any) in respect of which the votes were recorded.

(2) He shall then enclose the packets of “ Voting Papers Accepted ”, “ Voting Papers Rejected ”, and “ Voting Papers Spoiled ”, in one sealed packet, or in the case of a river district divided into wards, in one sealed packet for each ward, on the cover of which he shall endorse the words

“ Election of members of the river board for the river district of .....,” (or as the case may be, “ for the ..... ward of the river district of ..... ”) over his signature and the date.

26. The returning officer shall keep the packet or packets containing the accepted, rejected and spoiled voting papers aforesaid in a safe place under lock and key until the expiry of a period of six months from the date of the declaration of the poll. On the expiry of the said period he shall cause it and its contents to be destroyed by fire. On no account shall he allow the packet while it is in his possession to be opened for any reason whatsoever or its seals to be broken.

27. As soon as possible after the declaration of the poll the returning officer shall forward to the Minister by registered post a statement in the form set forth in Annexure C, showing the full names, occupations, and addresses of the persons declared to be duly elected, and the name of the particular ward (if any) for which each such person was elected.

#### *Marking of Voting Papers.*

28. A voter who desires to record his vote at an election of members of a board shall, on receipt of a voting paper, place on the right-hand side thereof opposite the name of each candidate for whom he desires to record a vote, figures showing the number of votes which he desires to record, but so that the aggregate number recorded for all the candidates is not greater than the number which, according to the list of voters, he is entitled to record, and sign the voting paper at the foot in the space provided for the purpose. A voter shall not record votes for more candidates than there are persons to be elected for the district, or if the district is divided into wards, for the ward in which he is registered as a voter.

29. If a voter be unable to read or is incapacitated by blindness or other physical cause from marking a voting paper, it shall be lawful for any other person to mark the paper for such voter under his or her direction; provided that in such case the person so marking a voting paper shall endorse on the paper the words

“marked by me at the request of the said (name of voter) and under his (or her) direction,”  
and shall sign his (or her) name beneath his (or her) endorsement.

*Offences and Penalties.*

30. Any person who shall directly or indirectly use or attempt or threaten to use any force, violence, or restraint, or who shall inflict or attempt or threaten to inflict any temporal or spiritual injury, damage or loss upon or against any other person in order to induce or compel such other person to vote or refrain from voting, or on account of such other person having voted or refrained from voting at any river board election or for any particular candidate at such election, shall be guilty of an offence.

31. Any person who shall directly or indirectly give or lend, or agree to give or lend, or offer or promise to procure or endeavour to procure any money or valuable consideration, or any office, place or employment, or any profit advancement or enrichment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or on account of such voter having voted or refrained from voting at any river board election or for any particular candidate at such election, shall be guilty of an offence.

32. Any voter who shall, during or after any election, directly or indirectly receive or agree to receive or contract for any money or valuable consideration whether as a gift or as a loan or any office, place or employment, or any profit, advancement or enrichment whether for himself or for any other person in consideration of such voter voting or refraining from voting at any river board election or for any particular candidate at such election, shall be guilty of an offence.

33. Any person who shall mark any voting paper issued for the use of any voter except at the request of such voter (being a voter unable to read or incapacitated by blindness or other physical cause from marking such paper) or shall mark such paper otherwise than in accordance with such voter's directions shall be guilty of an offence.

34. Any person who is guilty of any such offence as is mentioned in the last four preceding paragraphs shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months, or to such period of imprisonment without the option of a fine or to both such fine and such imprisonment; and any person aiding in or abetting the commission of any such offence shall likewise be guilty of an offence and liable on conviction to the penalties in this regulation mentioned.

35. Any person who not being qualified to be elected a member of a river board accepts nomination as a candidate at any election of members of such board shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds.

36. Any person who

- (1) being ordered by a returning officer to leave the polling place shall refuse to do so; or
  - (2) shall interrupt, obstruct or disturb the proceedings of an election,
- shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding fourteen days.

37. Any returning officer or other person who

- (1) wilfully places or is privy to the wilful placing in any box used for the retention of voting papers a voting paper which has not been lawfully issued to and marked by a voter knowing the same to be such voting paper, or
- (2) removes from any box or other receptacle used for the retention of voting papers any voting paper placed in such box or receptacle except for the purpose of counting the votes given at any election and in accordance with the provisions of regulation *twenty*; or



- (3) opens any packet in which voting papers have been placed by a returning officer under the provisions of regulation *twenty* or *twenty-five*, knowing the same to be such packet, except under the order of a competent court; or
- (4) forges or counterfeits or fraudulently defaces or destroys any voting paper, or the official mark thereon,

shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one year, or to such period of imprisonment without the option of a fine or to both such fine and such imprisonment.

38. No prosecution for an offence under these regulations shall be instituted after the expiry of one month from the date of the declaration of the result of the election in connection with which such offence is alleged to have been committed.

*Voidance of Election.*

39. If any person elected a member of a river board is convicted of an offence described in regulations *thirty*, *thirty-one*, *thirty-two*, *thirty-three*, or *thirty-four*, or of aiding in or abetting the commission of such offence, the presiding officer of the court before which such person is convicted shall forthwith forward to the Minister a certificate under his hand showing the particulars of such conviction and the Minister shall by notice in the *Gazette* declare the election of such person to be null and void and such election shall thereupon be null and void.

ANNEXURE A.

*Form of Nomination.*

I (full names).....  
 of (address).....being a registered voter for the  
 river district of.....(or the ward of the river district  
 of.....) hereby propose  
 (full names).....of  
 (address).....  
 (occupation).....as a candidate for  
 membership of the river board for the river district of.....  
 (or for the.....ward of the river district of.....).  
 Place..... Signed.....  
 Date.....

I (full name).....of (address).....  
 being a registered voter for the river district of.....  
 (or for the.....ward of the river district of.....)  
 second the above proposal.  
 Place..... (Signed).....  
 Date.....  
 Place.....  
 Date..... (Signed).....

ANNEXURE B.

*Form of Certificate to be signed by Person Nominated for Election.*

I (full names).....  
 of (address).....  
 (occupation)..... hereby certify  
 (1) that I accept nomination as a candidate for membership of the river  
 board for the river district of.....or for the.....  
 ward of the river district of.....and  
 (2) that I am to the best of my knowledge and belief qualified to be elected  
 a member of the said river board or for the.....ward  
 of the said river district.  
 Place..... Signed.....  
 Date.....

ANNEXURE C.

*Form of Statement of Persons Elected.*

To the Honourable  
the Minister of Lands.

I (full names).....  
being the Returning Officer for the river district of.....  
hereby certify that the following persons have been duly elected members of  
the river board for the river district of.....

	Full Names.	Occupation.	Address.	Ward No. or Name.
1.				
2.				
3.				

.....  
Signed.....

Place.....

*Returning Officer.*

Date.....

ANNEXURE D.

*Form of Notice of Poll.*

It is hereby notified for general information that the poll for the election  
of members of the river board for the river district of.....  
will be held at (description of polling place).....on the.....  
day of.....19.....

The persons nominated for election are as follows:—

	Full Names.	Occupation.	Address.
1.			
2.			
3.			

There are.....persons to be elected.

(Signed).....

Place.....

*Returning Officer.*

Date.....

NOTE.—If the river district is divided into wards a separate form shall be  
used for each ward, and the form headed with the number of the ward, and it  
shall be stated how many persons are to be elected for such ward.

ANNEXURE E.

Form of Voting Paper.

Name of Voter.....  
 River District of.....  
 Ward .....

There are.....persons to be elected.

1	BROWN.	
2	BURGERS.	
3	DUNN.	
4	HOFMEYR.	
5	JONES.	
6	MACINTOSH.	
7	MINNAAR.	
8	SWART.	
9	WILSON.	

Signature of voter.....

This form should be marked and signed by the voter and returned by post or otherwise to the returning officer so as to reach his hands not later than 2 p.m. on the.....day of.....19....

ANNEXURE F.

Instructions to Voters.

(a) The voting paper enclosed herewith is sent to you to enable you to vote by post for the election of members of the river board of your district (or for the election of members of the.....ward of your district).

(b) You should place on the right-hand side of the voting paper, opposite the name of each candidate for whom you desire to vote, the number showing the number of votes which you desire to record for each candidate not being in the aggregate greater than the number allotted to you on the voters list, and sign the voting paper with your name in the space provided for the purpose. You cannot vote for more candidates than there are persons to be elected, nor record a greater number of votes altogether than the number allotted to you on the voters list.

(c) After so marking and signing the paper in manner described above, you should place the voting paper in the envelope enclosed herewith, and forthwith send it to the returning officer by post or transmit it by hand.

(d) If you should inadvertently spoil the voting paper by marking it wrongly, tearing it, or in any other way dealing with it so that it cannot conveniently be used as a voting paper, you may return such paper to the returning officer by post or otherwise, and the returning officer will, if satisfied of such inadvertence, issue to you another voting paper in exchange for the spoiled paper.

(e) You must return the marked voting paper so that it is in the custody of the returning officer not later than 2 p.m. on the day fixed for the completion of the poll.

(f) The following voting papers will be held to be void and will be rejected by the returning officer when counting the votes:—

- (1) Papers which do not bear the perforated mark.

- (2) Papers which purport to give votes for more candidates than there are persons to be elected, or to record a greater number of votes than you are, according to the voters list, entitled to record.
- (3) Papers which are so marked that it is uncertain for which candidates the voter intended to vote.
- (4) Papers which are not signed by the voter, or by some adult person on his behalf as mentioned in the next succeeding paragraph (or are signed by a voter not registered in the ward for which he has recorded votes).

(g) If you are unable to read or are incapacitated by blindness or other physical cause from marking the voting paper, any other person may mark the voting paper under your directions; provided that in such case the person so marking the paper shall endorse the paper with the words

"marked by me at the request of the said.....  
and under his direction,"

to which endorsement such person shall subscribe his signature.

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ANNEXURE G.

*Form of Envelope for Return of Voting Paper.*

O.H.M.S.

To the Returning Officer,  
Magistrate's Office,

River District of.....  
Election of River Board.

(Free through Post.)

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PART II.

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REGULATIONS GOVERNING THE NOTICE OF RIVER BOARD MEETINGS.

1. Every meeting of the river board shall be convened by the chairman or other officer appointed by him in that behalf, by written notice sent by post or delivered to each member of the board, at his usual address, at least six clear days before the date of such meeting. The notice shall specify the date, hour, and place of such meeting, a copy of the agenda to be considered thereat, and a copy of the minutes of the previous meeting shall accompany the notice.

2. A resolution of the river board shall not be passed in respect of any subject which has not been included on the agenda attached to the notice of the meeting, unless every member of the board is present.

3. Any member desiring that a subject be included on the agenda shall lodge notice with the secretary at least fourteen clear days before the date of the next regular meeting.

4. No subject which has not been included on the agenda of any meeting shall be considered at that meeting, unless at least two-thirds of the members are in favour of its being considered thereat.

\* PART III.

Registration of Servitudes in accordance with sections thirty and seventy-two of the Act.

1. Any person who desires to register in accordance with sections thirty or seventy-two of the Act any servitude acquired before the commencement of the Act or granted or acquired under Chapter VI thereof, shall submit the following form in triplicate addressed to the secretary of the river board accompanied by such proofs of the validity of the servitude as it is possible to obtain :—

Application for Registration of Servitude.

River District of.....

I certify that I.....
(owner, lessee) of the farm.....No.....
District.....hold the following
servitude on the farm.....No.....
District.....Proprietor.....

(Here state nature of servitude and its duration and condition under which it was granted.)

and apply to have the same registered at the office of the river board.

If registered in the office of the Registrar of Deeds :—

No. of Deed .....
Date of Deed .....

(Signed).....

2. On receipt of such application the secretary of the river board shall communicate at once with the proprietor of the farm over which the servitude is claimed, explaining to him the full nature of such claim, and informing him of the date upon which the said claim will be considered by the river board, and shall submit the application to the river board at its next regular meeting after having given due notice to all members of the river board.

3. The river board shall make such inquiries as are necessary to ascertain whether the claimant is entitled to the servitude, and if the servitude is not disputed or if the servitude is granted by order of a competent court, the secretary shall return to the claimant one of the forms submitted by him with the following endorsement :—

Accepted by the.....river board at
a meeting held at.....on.....
.....19....

Member.

Chairman.

Registered in the office of the.....
river board, No.....Date.....

Secretary.

A copy with the endorsement shall be transmitted to the Irrigation Department, and another copy shall be filed in the records of the river board.

4. If and so long as the servitude is in dispute, the river board shall not register it unless or until the matter in dispute has been decided in manner provided for in the Act.

5. The river board shall keep a register in form prescribed in Annexure "A" of all servitudes affecting water in the river district acquired before or after the coming into operation of the Act and which have been accepted by the river board as in these regulations provided, and a copy thereof shall be open to inspection at the office of the river board at all reasonable hours.

\* Substituted by Proc. (Admn). No. 24 of 1910.

(Part III.)

\*Annexure A.

Register of Servitudes.

.....River District.

1	2	3	4	Farm in favour of which Servitude is registered.				Farm against which Servitude is registered.				13	Registered in Deeds Office.		16	17	
				5	6	7	8	9	10	11	12		14	15			
Consecutive No. of Servitude.	Date of Application for Registration.	Date of Acceptance by River Board.	Date of Registration.	Name.	No.	District.	Proprietor.	Name.	No.	District.	Proprietor.	Full particulars of Servitude.	Deed No.	Date.	Reference to Register of Rights.	Remarks.	

\* Added by Proc. (Admn.) 24 of 1910.

[ 2138 ]

A.D. 1908.]

Irrigation.

[Act No. 27.

## \* PART IV.

*Preparations of Schedule of Rateable Areas and Assessment of River and Irrigation Rates in accordance with sections thirty-one and thirty-four of the Act.*

1. In this part of the regulations "rateable" area shall mean the area of irrigated land measured by the river board in respect of which river rates may be assessed under section thirty-two of the Act, or in respect of which irrigation rates may be assessed under section thirty-four of the Act.

2. In preparing the schedule of rateable areas in respect of river rates, the board shall, as far as possible, measure only such areas as are actually and usually irrigated from the river within the river district.

3. In preparing the schedule of rateable areas in respect of irrigation rates the river board shall, as far as possible, measure all land irrigated or capable of being irrigated by the works in respect of which irrigation rates are chargeable.

4. The measurements of rateable areas for river rates and irrigation rates shall be reduced to morgen and fractional parts of a morgen, and shall be tabulated in the form prescribed (Annexure "A") and a copy thereof shall be open to inspection at the office of the river board at all reasonable hours.

5. The measurement of rateable areas shall be subject to revision by the river board on the first day of July of any year.

\* Substituted by Proc. (Admn.) No. 24 of 1910.





\* PART V.

APPLICATION FOR PERMISSION TO STORE OR DIVERT WATER FROM A PUBLIC STREAM, IN ACCORDANCE WITH SECTIONS FORTY-SEVEN AND FORTY-EIGHT OF THE ACT.

1. Any person who desires to divert or store the surplus water of any public stream shall fill in the application form following, in so far as it is applicable, and shall transmit it to the secretary to the river board of the river district in which the point of the storage or diversion desired is situate, or if there be no river board then he shall transmit it to the Minister.

Application for permission to <sup>store</sup>/<sub>divert</sub> the surplus water of a public stream.

To .....

Application of .....

Of farm No.....

District No.....

River district.....

in respect of a permit for the <sup>diversion</sup>/<sub>storage</sub> of the surplus water of the..... river.

N.B.—The applicant must fill in the blank spaces in this form with the required information, and where alternative expressions are given he shall strike out those that do not apply.

(a) The applicant is the owner (or agent lawfully authorized by the owner as the case may be) of the property..... situated in the district of.....

(b) The said property..... is (not) riparian to the..... river situated in the watershed of the..... river.

(c) The applicant has the right to or to the use of the water of the..... river for the following reasons, viz.....

(d) The applicant is entitled to superintend and control the use of the water of the..... river for the following reasons, viz.:

(e) The accompanying plan (1) shows the general arrangement of the proposed works and the land or lands on which the surplus water is to be <sup>diverted</sup>/<sub>stored</sub>.

(f) The following is a description of the works in respect of which the <sup>diversion</sup>/<sub>storage</sub> of the water is required:—

- (1) Maximum height of <sup>weir</sup>/<sub>dam</sub>.....
(2) Length of <sup>weir</sup>/<sub>dam</sub>.....
(3) Profile of <sup>weir</sup>/<sub>dam</sub>.....
(4) Full supply of reservoir..... cubic feet.
(5) Equivalent constant flow of (4)..... cusecs for..... days.
(6) Materials of construction.....
(7) Point of diversion from river.....
(8) Nature of gauging apparatus provided.....
(9) Point water is returned to river by a defined channel.....
(10) Size and gradient of canal.....
(11) Length of canal.....
(12) Full supply discharge.....
(13) Type of headworks.....
(14) Area irrigable.....
(15) Purposes for which required.....
(16) Area of catchment.....

\* As amended by Proc. (Admn.) No. 24 of 1910.

- (17) Provision for flood discharge.....
- (18) Areas of land submerged on each property affected.....
- (19) Areas of land occupied on each property affected.....
- (20) Estimated total cost of proposed works.....
- If for water power—
- (21) Type of machine.....
- (22) Horse power to be developed.....
- (23) Head under which machine will work.....

(g) The applicant wishes to enjoy the use of the surplus water for a period of.....years.

*Certificate of Applicant.*

I.....of.....  
 certify that I have read the foregoing and that the matters and things set forth therein are to the best of my knowledge and belief true and accurate and I am not aware that any dispute in respect of the rights claimed in clauses (c) and (d) is pending in a competent court.

Signed.....

2. The plans to be submitted with the application must be drawn on a scale of not less than 500 feet to the inch.

3. Deleted by Proc. (Admn.) No. 24 of 1910.

4. On the receipt of such application the secretary to the river board or the Minister, as the case may be, shall cause the same to be notified and circulated in the river district or *neighbourhood\** concerned at least one month before the date on which such application will be considered by the river board, or the Minister, and shall appoint a date after which objections to the application will not be considered.

5. The river board, in considering the application, shall give preference to any application that may be received from other owners for permission to participate in the benefits of the proposed works, and shall not permit works to be carried out for the sole benefit of one proprietor if such works are capable of enlargement or extension to benefit other proprietors, without detriment to the original applicant, and such proprietors are willing to participate in such benefit and pay a *pro rata* share of the cost of the works.

ANNEXURE A.

*Deleted by Proc. (Admn.) No. 24 of 1910.*

PART VI.

ACQUISITION OF SERVIDITUDES, IN ACCORDANCE WITH SECTIONS *SIXTY-ONE, SIXTY-TWO, SIXTY-THREE, AND SIXTY-FOUR* OF THE ACT.

1. Any person who desires to obtain any or either of the servitudes of storage, passage of water, or abutment, in accordance with the Act, shall fill in the following form in so far as it is applicable and communicate it to the proprietor, mortgagee, or lessee of the ground over which the servitude is desired. He shall also send such notice to the secretary of the river board of the river district, or if no river board exists, then to the Minister.

*Form of notice of claim of servitude.*

Application of.....  
 Of Farm No.....  
 District.....  
 in respect of a servitude of  $\frac{\text{storage}}{\text{passage of water}} \frac{\text{from}}{\text{on}}$  the.....  
 river, farm No.....

*N.B.*—The applicant must fill in the blank spaces on this form with the required information, and where alternative expressions are given he shall strike out those that do not apply.

\* Words in italics inserted by Proc. (Admn.) No. 24 of 1910.

(a) The applicant is the proprietor (or agent lawfully authorized by the proprietor as the case may be) of the property..... situated in the district of.....

(b) The said property..... is (not) riparian to the..... river.

(c) The applicant has the right to or use of the water of the..... river for the following reasons, viz.....

(d) The applicant is entitled to superintend and control the use of the water of the..... river for the following reasons, viz.:.....

(e) The accompanying plan\* marked ( ) shows the general arrangement of the proposed works and the land or lands on which the servitude of storage of passage of water is claimed. abutment

(f) The following is a description of the work in respect of which servitude of storage of passage of water is claimed :— abutment

- (1) Maximum height of weir dam.....
- (2) Length of weir dam.....
- (3) Profile of weir dam.....
- (4) Full supply contents of reservoir..... cubic feet.
- (5) Equivalent constant flow of (4)..... cusecs for..... days.
- (6) Materials of construction.....
- (7) Point of diversion from river.....
- (8) Nature of gauging apparatus provided.....
- (9) Point water is returned to river by a defined channel.....
- (10) Size and gradient of canal.....
- (11) Length of canal.....
- (12) Full supply discharge.....
- (13) Type of head works.....
- (14) Area irrigable.....
- (15) Purposes for which required†.....
- (16) Area of catchment.....
- (17) Provisions for flood discharge.....
- (18) Areas of land submerged on each property affected [sec. 62 (4)].....
- (19) Areas of land submerged on each property affected [sec. 69 (2)].....
- (20) Estimated total cost of works [sec. 64 (2)].....  
If for water power—
- (21) Type of machine.....
- (22) Horse power required.....
- (23) Head under which machine will work.....

(g) The applicant wishes to enjoy the servitude of storage of passage of water for a abutment period of..... years. in perpetuity.

\* The plan should be drawn to a scale of not less than 500 feet to an inch.  
† Irrigation, industrial, or domestic purposes.

(h) On the schedule attached to this form is set forth the names of the owners, mortgagees and lessees of the properties riparian to the.....  
storage  
 river over which the servitude of passage of water is claimed.  
abutment

Notice with full particulars was not less than one month ago given to all owners, mortgagees, and lessees herein named and with the following results.  
 Fill in this table for each name set down in the form (Annexure A).

Ref. No. of farm.	Name of Owner, Mortgagee, or Lessee.	Does the person acquiesce or not in the claim for servitude for <u>Storage</u> <u>Passage of water</u> <u>Abutment.</u>	Does the person propose to participate in the work to be constructed in virtue of the servitude. †

*Certificate of Applicant.*

I.....of.....  
 certify that I have read the foregoing, and that the matter and things set forth therein are to the best of my knowledge and belief true and accurate, and I am not aware that any dispute in respect of the rights claimed in clauses (c) and (d) is pending in a competent court.

Signed.....

2. If the proprietors, mortgagees, or lessees of the properties on or over which the servitude is claimed do not acquiesce in the claim, the person desiring the servitude shall fill in the rest of the form from clause (h) onwards and forward the completed form in triplicate to the Minister with the request that the matter be referred to a water court.

The Minister may then appoint a water court to hear and determine the claim as provided for in the Act.

ANNEXURE A.

*Schedule of Reference.*

Referred to in the application of.....re the  
storage  
 servitude for passage of water from.....river,  
abutment on.....  
 Farm No.....

Ref. No. to property (consecutively on plan).	Name of property.	Name of person to whom notice was served.	Date of service of such notice.

† Original footnote deleted by Proc. (Admn.) No. 84 of 1909.

PART VII.

APPLICATION FOR LOAN UNDER CHAPTER VII OF THE ACT.

1. Any river board which desires to obtain a loan under Chapter VII of the Act shall submit an application in writing to the Minister in the following form :—

Form of application for a loan to a River Board under the Irrigation Act, 1908.

Application of the.....river board.
Constituted for the.....river district, on.....
19.....in respect of a loan amounting to £.....
(Here state the purpose for which the loan is required.)

for.....
The conditions on which the loan will be advanced are :—

(1) The loan should be for a period not exceeding.....years, and interest at a rate not exceeding.....per cent. per annum shall be payable thereon half-yearly in advance for the first three years of the currency of the loan and thereafter interest and redemption shall be payable for the remainder of the period of the loan, in equal half-yearly instalments the amount of the redemption rising as the interest diminishes according to tables to be prepared by the Minister.

(2) The security offered for the loan is.....
(Here state the security in full.)

(3) The existing liabilities of the board amount to £.....

(4) The rates leviable by the board are encumbered to the following extent

(Here state the names and address of any persons entitled to the encumbrances.)

(5) A full statement of the revenue and expenditure of the river board is attached.

Certificate.

I....., Chairman of the.....river board certify that I have read the foregoing and examined the statement of revenue and expenditure of the river board appended thereto and that the matter and things set forth therein are to the best of my knowledge and belief true and accurate. I also certify that the conditions of section thirty-five of the Irrigation Act have been complied with.

Chairman.....River Board.

Witness (1)

Do. (2)

2. On the receipt of such application the Minister may require the board to furnish such further information or may make such further investigation as he may think desirable and may thereafter deal with the application as he may see fit.

3. Any proprietor who desires to obtain a loan under the Act shall submit an application to the Minister in the following form :—

Form of application for a loan to a proprietor under the Irrigation Act, 1908.

To the Honourable
The Minister of Lands,
Pretoria.

Application of.....
Of farm No.....District.....

in respect of a loan on first mortgage of.....
Property described in form (Annexure A) for the purpose of construction of
irrigation

works for industrial purposes.....
domestic supply

acquisition of a servitude awarded by agreement sent hereunder.
by order of Water Court No....date.

Amount of loan required £.....

The conditions of the loan are :—

The loan shall be repayable without sinking fund at the end of the term for which it is granted, which shall not exceed.....years; provided

that the person to whom the loan is granted may on the due date of any half-yearly payment of interest during the term repay any sum not being less than £5 or a multiple of £5 in redemption of the principal sum. Interest on the loan or on so much thereof as for the time being remains unpaid shall be payable in advance at the rate of . . . per cent. per annum by half-yearly payments, and the first half-yearly payment of interest shall be deducted from the amount of the loan when it is advanced.

The applicant must fill in the blank spaces on this form with the required information, and where alternative expressions are given he shall strike out those that do not apply.

(a) The applicant is the owner (or agent lawfully authorized by the owners as the case may be) of the property . . . . . situated in the District of . . . . .

(b) The said property . . . . . is (not) riparian to the . . . . . river.

(c) The applicant has the right of use of the water of the . . . . . river for the following reasons . . . . .

(d) The applicant is entitled to superintend and control the use of water of the . . . . . river for the following reasons:— . . . . .

(e) The accompanying plan\* marked ( ) shows the general arrangements of the proposed works and the land or lands which are to be irrigated.

(f) The following is a description of the works in respect of which the application for a loan has been made:—

- (1) Maximum height of  $\frac{\text{weir}}{\text{dam}}$  . . . . .
  - (2) Length of  $\frac{\text{weir}}{\text{dam}}$  . . . . .
  - (3) Profile of  $\frac{\text{weir}}{\text{dam}}$  . . . . .
  - (4) Full supply contents of reservoir . . . . . cubic feet.
  - (5) Equivalent constant flow of (4) . . . . . cusecs for . . . . . days.
  - (6) Materials of construction . . . . .
  - (7) Point of diversion from river . . . . .
  - (8) Nature of gauging apparatus provided . . . . .
  - (9) Point water is returned to river by a defined channel . . . . .
  - (10) Size and gradient of canal . . . . .
  - (11) Length of canal . . . . .
  - (12) Full supply discharge . . . . .
  - (13) Type of head works . . . . .
  - (14) Area irrigable . . . . .
  - (15) Present value of area irrigated . . . . .
  - (16) Enhanced value of area irrigated after construction . . . . .
  - (17) Purposes for which required † . . . . .
  - (18) Area of catchment . . . . .
  - (19) Provision for flood discharge . . . . .
  - (20) Estimated total cost of works . . . . .
- If water is required for water power (industrial purposes)—
- (21) Type of machine . . . . .
  - (22) Horse power required . . . . .
  - (23) Head under which machine will work . . . . .

4. On the receipt of such an application the Minister may require the applicant to furnish such further information or security or may institute such enquiries as he may deem necessary and may thereafter deal with the application as he shall see fit.

ANNEXURE A.

Description of Property.

- 1. Name of farm, number, district and ward ; whether applicant owns a defined portion or undivided shares. How many morgen ? Whether surveyed or unsurveyed ? . . . . .

\* The plan should be drawn to a scale of not less than 500 feet to an inch.  
 † Irrigation, industrial purposes, or domestic.

2. Nature of title, whether freehold, quitrent, or occupation farm under Ordinance No. 25 of 1904 ?.....
3. State whether servitudes exist? If so, of what nature ?.....
4. Is the property fenced? If so, to what extent and with what material ?.....
5. What extent is under cultivation? State nature of crops and average annual yield ?.....
6. How provided with water ?.....
7. Buildings. State number, give description and particulars of construction and whether in good repair and by whom occupied ?.....
8. What other improvements on the property ?.....
9. When was the property purchased and at what price ?.....
10. By whom and upon what conditions is the property occupied ?.....
11. Is the property already mortgaged or otherwise encumbered? If so, give particulars.....
12. Have you applied elsewhere for a loan in respect of this property? If so, give particulars.....
13. What other fixed property do you possess? If farm property, state name, number, district, surveyed or unsurveyed, and extent. If encumbered, in what way and to what extent. If town property, name of town, number of erf, its extent; value of buildings thereon, if any. If encumbered, give full particulars.....
14. What plant and machinery ?.....

*Additional Security.—Town Property.*

1. Village or town where situated.....
2. Number of erf—its extent. If already encumbered in any way. If so, give particulars.....
3. If let, give full particulars.....
4. Buildings, if any; whether in good repair, and if let, give full particulars.....
5. If insured, state amount of insurance, name of company, and to what date premium is paid.....
6. When was property purchased, and at what price ?.....
7. What improvements have been effected since your ownership thereof ?.....
8. Are all rates, taxes, and licenses paid to date? If so, produce last receipts.....

*Declaration under Oath.*

....., the undersigned,.....  
 make oath and say, with reference to the loan solicited by..... from the Minister of Lands for a sum of £....., upon security of a first mortgage of the immovable property, more particularly described in the deed of transfer, passed in my favour on.....  
 No....., that the several statements in foregoing schedule are strictly true and correct in every particular; that the conditions specified herein are familiar to me, and that I agree to the terms thereof; that my marriage with.....  
 ..... is the first and only one I have ever contracted; that my spouse is still living, to whom I am married (state "in" or "out of").....  
 community of property in the most absolute sense of the term, and without any exception and reservation, and that she was a\* (state spinster or widow) .....when I married her.

\* If deponent or "spouse" has been married previously, state how many times, giving names of deceased spouses, and stating whether such deceased spouse had been married or not at the time of marriage with deponent or "spouse". Always state maiden names of women, and whether persons were married in community of property or not.

That the said property or any portion thereof is not leased.†

That I am not entrusted with any guardianship of children belonging to another person; nor have I charge or control of any funds belonging to minors, nor am I, either directly or indirectly, accountable for such funds and moneys; further, that I am not charged with the collection of any funds or moneys belonging either to Government or any town or other local administrative body; that no person whatsoever has any right or tacit legal mortgage of what kind soever on my goods, that there is no unsatisfied judgment against me in any court of this colony, and there are no interdicts against the disposal of the property in question; and lastly, to the best of my knowledge and belief, I have not failed to disclose any fact or circumstance which would or might impair the granting of the said loan.

Sworn at.....  
this.... day of..... 19.....

Before me.

.....  
Justice of the Peace.

Valuator's Report.

(Made by the valuator at expense of applicant.)

N.B.—The valuator will please state his valuations at the current market value, giving values of lands [agricultural and (or) pastoral values only], buildings, and other improvements separately. He must personally inspect and see that the land described by the applicant corresponds with that reported upon, and that the buildings and improvements specified are actually thereon. Describe the nature and quality of the land. If possible, give a rough sketch of the property, showing how situated with regard to adjoining properties.

I,.....  
do hereby declare that on the..... day of..... 19.....,  
I personally inspected the property described in foregoing application, viz. :—  
.....  
that I found the description therein given to be correct, and that the present marketable value of the property (apart from the value of any minerals) is....  
..... pounds sterling (£.....),  
which amount is arrived at as follows:—

‡ Land.....	£
.....	£
.....	£
.....	£
.....	£
§ Buildings and other improvements.....	£
	£

Given under my hand at.....this.....day of.....  
19....

.....  
Valuator and Sworn Appraiser.

I hereby certify that I have carefully perused this application and recommend it to the favourable consideration of the.....  
the valuation of the property appearing to me to be fair and reasonable, and the applicant being of good character.

.....  
Resident Magistrate of.....

† If property leased, copy of lease to be annexed.  
‡ Specify, if possible, area of cultivated lands and area of irrigable land.  
§ State whether buildings are in good repair and character of structure.



## PART VIII.

## HIRE OF GOVERNMENT DRILLS.

1. In this part of these Regulations "boring engineer" shall mean the officer in charge of boring operations under the chief engineer.

2. Government drills cannot be hired to drill for water

- (a) for civil servants;
- (b) on erven in townships for private purposes;
- (c) for applicants who are not the proprietors of the ground on which boring is desired unless the application is endorsed and payment for the hire of the drill guaranteed by the proprietor of the ground or other approved security given;
- (d) for industrial companies not engaged in *bona fide* farming operations unless with special authority.

3. *Submission of applications.*—Applications by farmers for the hire of a Government water drill for boring for water should be sent on form set forth in Annexure A to the Boring Engineer, Irrigation Department, Pretoria, through the resident magistrate of the district in which the applicant resides.

4. *Acceptance of applications.*—This is subject to such enquiry by the resident magistrate and boring engineer as may be deemed necessary for ascertaining the following particulars:—

- (a) Geographical and geological practicability of the proposed bore.
- (b) Ability of applicant to pay all charges.
- (c) Necessity for water (1) for domestic purposes; (2) for stock; (3) for irrigation.
- (d) Proximity to other proposed bores.

Special regard will be given to the development of farming and agricultural industries.

5. *Notification of acceptance of application.*—The acceptance of his application will be notified to the applicant by the boring engineer through the resident magistrate. The applicant may be requested to give further necessary information before boring is commenced for him.

6. *Notice of availability of drill.*—Each accepted applicant will have at least four days' notice that a drill has been set apart for him. This notice will state where the drill is and the date from which the applicant should take it over. Should he not take it over within three days of the fixed date he will be liable to forfeit the grant of the drill to him and to pay for the foreman's wages during the delay. The taking over of the drill shall preclude the applicant from any denial of liability for it.

7. *Classes of Government drills.*—Government will provide one or other of the following classes of drills, at the discretion of the boring engineer, unless some prior arrangement has been made with the applicant:—

- (a) Steam diamond drill, capable of boring a 2½-inch hole to a depth of 5000 feet.
- (b) Steam percussion (or "jumper") drill, capable of boring a 6-inch hole to a depth of 800 feet.
- (c) Steam rotary "shot" drill, capable of boring a 6-inch hole to a depth of 600 feet.

The above drills are all equipped with the necessary tools and appliances and a tent or house for the foreman. For (a) the equipment will be arranged for specially as required.

8. *The foreman.*—The foreman will be a capable man and will have the entire direct charge of the boring operations. He will receive instructions to meet the applicant's wishes as far as practicable, to use all expedition in carrying out the bore for him, and not to give him unnecessary trouble. Should the applicant have any complaint to make about him he should prefer it in writing to the resident magistrate, who will enquire into the matter. No payment for his services is to be made to the foreman by the applicant.

9. *Charges.*—The charges to be paid by the applicant will be:—

- (a) For each day while the plant is being erected or dismantled the sum of 20s.; a similar daily charge of 20s. will be made during pumping tests.
- (b) For each working day from the erection of the drill the sum of 40s. (Saturday to be reckoned half a day.)

- (c) For heavy diamond drills, class (a), the charge will be by special arrangement.
- (d) Any breakages for which the applicant is himself responsible.  
The cost of replacements or repairs necessitated by boring, pure and simple, will be borne by the Government.
- (e) No charge will be made for periods during which a drill may be stopped for repairs or on account of bad weather, a breakdown, or of the illness of the foreman, but full charges may be enforced for any delay due to the applicant.

10. *Transport.*—(a) Government will bear the cost of carriage by rail of the drill, appliances, and foreman in charge thereof, to the railway station or centre nearest to the farm of the first applicant in any district.

(b) Government cannot guarantee transport, but, where there is a Government transport station available and the applicant cannot himself arrange for the transport of the drill, will provide it for him at the Government rates. Drills, cannot, however, be sent out to districts where there is animal sickness, or where there are restrictions against the movement of animals.

(c) The first applicant will provide transport for the drill and its appliances, and for the foreman and his baggage, from the station or centre to his farm, and will use all expedition in this respect.

(d) A succeeding applicant will similarly provide transport from the previous farm to his own farm, and the last applicant will provide it back to the nearest railway station or centre, if required to do so.

(e) The applicant will also, when necessary, provide transport between his farm and the railway station, or such other spot as may be selected, for the conveyance of machinery and stores required to conduct boring operations.

(f) The applicant will also provide means of communication to and from the nearest post and telegraph office at least once a week.

11. *Casing.*—Government will provide free of charge the casing required to line the whole or part of a borehole which is not in solid rock. The amount of casing necessary will be at the discretion of the boring engineer.

12. *Working hours.*—Working hours on ordinary week days will be nine per day, except on Saturdays, when they will be five hours, and work will cease at 1 p.m.

No work will be done on Sundays and public holidays, nor will a charge be made for these days.

13. *Supplies by applicant*—(a) *Labourers.*—Government will provide, free of charge, the natives required for working the drilling machine. The applicant must supply, free of all charges, such other natives as may be required for unloading, erecting, dismantling, and loading up the plant, and for cartage of water.

(b) *Water and fuel.*—The applicant must supply and transport, at his own cost, sufficient fuel (wood or coal) and water for the proper working of the drill, and for the use of the foreman and natives.

(c) *Provisions for foreman.*—The applicant must either supply food for the foreman by private arrangement and at reasonable prices, or must bring supplies for him from a store not less than once a month.

(d) The applicant must generally give such other assistance as the foreman may require to perform his work efficiently.

14. *Cessation of boring.*—Boring may be stopped

- (a) at the applicant's request in writing to the boring engineer;
- (b) when a fair and reasonable supply of water has been struck;
- (c) at the discretion of the boring engineer when there is, or is likely to be, any damage to the drill, or further boring is unlikely to yield satisfactory results;
- (d) when the borehole is 300 feet deep, unless a special arrangement is made by the applicant with the boring engineer to continue it.

15. *Responsibility for success.*—Beyond providing an efficient plant, foreman, and natives, Government do not guarantee any successful result from the boring operations. The undertaking, will, therefore, be entirely at the applicant's risk, but every reasonable assistance towards a successful issue of the work will be readily given.

16. *Limit of period of work and number of boreholes.*—A drill will not work on account of any one applicant for a longer period than forty-eight working days, unless exceptional circumstances justify an extension of this period.

Not more than three boreholes will be sunk on any one property, under one application, except under special sanction. Holes abandoned by order of the boring engineer will not be taken into account in this respect.

17. *Special conditions.*—Further special conditions, additional to the foregoing, when necessitated by the nature of the ground to be bored in or by difficulty in getting to the site, may be imposed by the boring engineer, after consultation with the applicant. Their acceptance by the applicant must be definitely notified before any work is undertaken or continued.

18. *Cores.*—As the boring branch is desirous for scientific purposes of collecting cores, showing the strata of the Colony, all cores saved shall be its absolute property. The applicant, however, may closely examine them, and may, if he desires, and at the discretion of the boring engineer, have small pieces given to him for analytical purposes. Samples of all cores thus acquired by the Government will be carefully kept and registered.

ANNEXURE A.

\* 19. *Form of application for the hire from Government of a Water Drill.*

Postal Address.....

(Date).....

To the Boring Engineer,  
Land and Irrigation Department,  
Pretoria.

Through the Resident Magistrate, ..... District.

Application for the hire from Government of a Water Drill.

Sir,

I beg to apply for the hire of a water drill for use on my farm.....  
....., No....., District.....  
for.....

2. I hereby agree and undertake to comply with the terms and conditions set forth in the rules and regulations governing the working of the Government water drills (Form ID/B No. 50 revised), with which I acknowledge myself to be fully acquainted.

3. I also agree that the core (if any is saved) shall be the absolute property of the Government, understanding that it will be open to my inspection at any time.

4. I agree to pay for the drilling to be done for me in cash upon demand at any time by the local Receiver of Revenue or any other officer of the Government, duly authorized thereto, and in case of default in payment on demand I agree to pay interest at the rate of £6 per cent. per annum from the date of demand to the date of actual payment.

4a. I agree to pay for the drilling to be done for me in five equal instalments, the first instalment whereof shall become due and shall be paid by me in cash upon demand by the local Receiver of Revenue or any other officer of the Government duly authorized thereto, and the remaining four instalments whereof, each of which four instalments shall carry interest at the rate of £6 per cent. per annum, calculated from the date of demand for payment of the first instalment, shall become due and shall be paid by me in cash at six, twelve, eighteen, and twenty-four months respectively, calculated from such date of demand for payment of the first instalment. In case of default in payment of any instalment on the due date I agree to pay interest thereon at the rate of £6 per cent. per annum from such due date to the date of actual payment, and I further agree that in the case of default of any instalment on the due date as aforesaid the remaining instalment or instalments shall become forthwith due and payable.

4b. The payment of the capital amount, all instalments and interest, which shall become due under the foregoing provision, is secured in form and manner endorsed hereon.

4c. I undertake that pending payment of the capital amount and interest due, if any, and notwithstanding the security referred to in provision numbered 4b, I will not sell, dispose of, or mortgage or pledge my said farm, hereinbefore mentioned, under pain of interdict and other legal proceedings as the Government may be advised.

I am, Sir,

Yours faithfully,

\* This clause substituted by Proc. (Admn.) No. 57 of 1909.

(To be endorsed on application form.)

(Date).....

I, the undersigned, { .....
We, hereby interpose and bind ..... as suret..... in solidum and co-principal debtor... for the due and punctual payment of the capital amount, all instalments and interest due and to become due and payable under and in accordance with the terms of the above written application by..... should the said application be accepted or acted upon.

I We renounce and waive to that end all benefit of the exceptions ordinis seu excussionis et divisionis.

- 1.....
2.....
3.....

Note.—If the applicant desires to pay by instalments, paragraph 4 should be deleted ; if applicant desires to pay the total charges in cash on demand, paragraphs 4a, 4b, and 4c should be deleted.

20. On the receipt of an application on the form set forth in Annexure A, the resident magistrate shall make such enquiries as are necessary in order to ascertain if the application is in order, and that the applicant is capable of paying for the hire of a drill, and when satisfied shall forward the application to the boring engineer with his recommendation on the following form:—

ANNEXURE B.

Recommendation for Sanction to Application for a Government Water Drill.

No.....

To the Boring Engineer, Pretoria.

Sir,

I have the honour to forward herewith an application in form (Annexure A) for the hire of a Government water drill for Mr..... of..... farm, No....., District.....

2. I have ascertained by enquiry that the applicant requires the drill for the purposes of his farm ; that he is capable of paying for its hire, and of providing transport for it ; and that he will assist the foreman in charge in all his reasonable requirements.

3. I therefore recommend that his application be granted on the terms laid down in the Regulations.

I have the honour to be, Sir, Your obedient Servant,

Resident Magistrate.

.....District.

Accompaniment :

Application in form (Annexure A).

21. The boring engineer shall, on receipt of such recommendation, make such enquiries as are necessary in order to ascertain if it is practicable to undertake the drilling asked for, and after such drilling has been sanctioned he shall notify the applicant through the resident magistrate on the form set forth in Annexure C.

## ANNEXURE C.

*Communication of Sanction of Application for the Hire of a Government Water Drill.*

(To be sent in triplicate, one copy to be retained by the resident magistrate, the second to be sent by him to the applicant, and the third copy to the foreman or contractor.)

To Mr.....

Sir,

Your application in form (Annexure A), dated....., for the hire of a Government drill for the purposes of obtaining water for your farm....., No....., District, has been sanctioned by the Chief Engineer, Irrigation, on the conditions laid down in the Regulations. Due notice of the date when the drill will be available will be sent to you by the resident magistrate.

.....  
Boring Engineer.

Through the Resident Magistrate.....District.

No.....

Forwarded to Mr.....for information.

.....  
Resident Magistrate,

.....District.

## PART IX.

## SERVICES OF GOVERNMENT ENGINEERS IN CONNECTION WITH SURVEYS AND INVESTIGATIONS.

*I.—Informal Advice.*

1. Informal advice will be granted free of charge, either by officers on tour or at headquarters, provided that

- (a) no detailed surveys will be made nor any formal plans or drawings prepared without special authority; rough sketches may, however, be made, to illustrate and explain the advice given;
- (b) the officer affording advice will not be detained on the farm in connection with which advice is given for a period exceeding two days;
- (c) the applicant will give the advising officer shelter and will transport him from the nearest railway station to his farm.

*N.B.*—Neither the Government nor the Chief Engineer, Irrigation, will be responsible for any advice thus informally given, nor for the correctness or otherwise of opinions expressed by any officer, though such advice and opinions will be given and expressed in all good faith.

*II.—Surveys and other work for periods exceeding two days.*

2. Should it appear to the engineer that surveys or other work arising under the preceding section will occupy a period exceeding two days, or that the magnitude of the works is such as to call for more extensive preliminary survey prior to advice being given, the applicant, if he desires more complete information, shall make application on the Form "B."

3. The engineer will submit the completed form, with a brief report, to the Chief Engineer, Irrigation, who will then give instructions as to what should be done, and furnish to the applicant a lump sum estimate of the cost of the professional assistance required.

4. If thereafter the applicant shall desire that the services of a Government officer be made available for the work required, arrangements will be made to do the work as soon as possible, and an intimation will be given of the approximate date by which the work can be taken in hand.

Any applicant may, however, if preferred, engage the services of an engineer in private practice for the execution of any work such as that in view.

5. Any applicant requiring professional assistance may apply in writing to any resident magistrate, field cornet, the engineer in charge of his district, or to the Chief Engineer, Irrigation, in Pretoria, on Forms "A" and "B", and the Chief Engineer will furnish the applicant with an estimate of the amount which will be charged for such professional advice as on the information forwarded he may deem to be required. On acceptance of this estimate by the applicant the Chief Engineer will cause the necessary steps to be taken.

FORM A.

Irrigation Projects.

*Surveys and other work for periods not exceeding two days.*

Application is hereby made for the services of a Government engineer for ..... days, in accordance with the Regulations, under the Irrigation Act governing such advice, with all the terms of which I have fully acquainted myself, and which I hereby accept and agree to be bound by in all respects.

.....  
(Signature of Applicant.)

- (1) District.....
- (2) Field Cornetcy.....
- (3) Name of farm.....

FORM B.

Irrigation Projects.

*Application for preliminary survey and investigation for period exceeding two days*

Address.....  
Date.....

To the

- (1) Resident Magistrate.....
- (2) Field Cornet.....
- (3) The Executive Engineer, ..... District; or
- (4) The Chief Engineer, Pretoria.

Application is hereby made for the services of a Government engineer for the survey and investigation of the irrigation project described below, under the terms and conditions of the Regulations under the Irrigation Act, 1908, governing such service, with all of which I have fully acquainted myself, and which I hereby accept and agree to be bound by in all respects.

.....  
(Signature of Applicant.)

*General description of project.*

- (1) District.....
- (2) Field Cornet's Ward.....
- (3) Details regarding farms and area to be irrigated:—

Names or Numbers of Farms.	Names of Owners.	Area to be Irrigated in each Farm. Morgen.

4. Chief classes of crops to be irrigated and time of year during which water will be required for each crop :—

.....  
.....  
.....  
.....

5. Source from which water is to be obtained, whether from :—

- (a) Storage.....
- (b) Stream or river.....
- (c) Fountain, well, or borehole, etc.....

6. Nature of work to be constructed. State as full particulars as possible regarding the site, nature, and dimensions of each proposed work ; the probable position, length, and height of each weir or dam ; the nature of the rock or soil upon which it will be founded ; the material available for its construction ; the probable length of each furrow, etc. :—

.....  
.....  
.....  
.....

PART X.

DRAWING UP WATER SUPPLY SCHEMES FOR LOCAL AUTHORITIES.

1. Preliminary Procedure for Drawing up Schemes.

If a local authority desire to have their water scheme designed by the Chief Engineer, Irrigation, they should apply to the Minister of Lands for sanction to a preliminary report being drawn up.

2. Submission of preliminary report to, and information to be supplied by, the local authority.

Before the preliminary report is drawn up the local authority shall communicate to the Chief Engineer the main lines on which the scheme shall be prepared. They shall furnish him with particulars as to the population to be served, and as to the amount of water required for industrial and other purposes. They shall settle and communicate to him any agreements entered into between them and other public bodies sharing in the scheme. They shall also undertake to furnish estimates of the cost of acquiring and ultimately to acquire servitudes and lands or other immovable property which may be required for the scheme.

The local authority and the Chief Engineer are authorized to correspond direct with each other in all matters connected with the preparation and execution of a water supply scheme.

3. Submission of final report to the local authority.

If the local authority approve of the scheme recommended in the preliminary report, they may ask the Chief Engineer to carry out a survey and prepare detailed drawings and estimates and furnish a final report. As soon as the detailed scheme has been prepared the Chief Engineer shall forward it to the local authority for consideration, and shall explain its nature to the local authority to enable them to decide whether they will adopt it entirely, or with whatever modifications they consider are desirable and which are feasible.

4. Execution of scheme, contracts, and payments.

If the local authority approve of the scheme recommended in the final report, they may ask the Chief Engineer to carry out the works. The local authority shall then obtain the advice of the Chief Engineer as to the acceptance of the contracts for the works. The local authority shall be responsible for all contracts into which they enter and for making in connection with the execution of the scheme all payments which are certified to by the Chief Engineer, Irrigation.

### 5. *Payment by local authority for Chief Engineer's Staff.*

Before any works are commenced which are to be carried out by the Chief Engineer, the local authority shall undertake to pay to Government for the services of the Chief Engineer, Irrigation, and his staff employed in connection with the works, the cost price to Government of such services as the Chief Engineer may certify as reasonable, but such charge shall in no case exceed 5 per cent. of the cost price of the works. The local authority shall pay to the Treasury from time to time such sums as the Chief Engineer shall certify to under this regulation. In addition the local authority shall pay the full cost of the establishment especially employed on the construction of the works and resident on them. The Chief Engineer shall include the estimated cost of all charges in his estimate of the cost of the scheme.

### 6. *Stages summarized.*

The different stages of procedure between a local authority and the Chief Engineer may be summarized thus:—

- (1) *Preliminary Report.*—This will be submitted with the approximately estimated cost of the works, and will include the estimated cost of the survey and the preparation of the final report and detailed estimates. For this report no charge will be made.
- (2) *Final Report.*—This will be submitted with the detailed plans and estimates. If a charge for this report is made it will not in any case exceed  $2\frac{1}{2}$  per cent. of the estimated cost of the scheme.
- (3) *Construction.*—This will include the preparation of contract documents, the letting of contracts, and the supervision of the construction. For this the local authority will be charged in addition to the charge for preparing the plans and estimates:
  - (a) The actual cost to Government so long as it does not exceed 5 per cent. of the actual cost of the works: and
  - (b) the full cost of establishment resident on the works.

### 7. *Chief Engineer's authority for execution of Works.*

When any water supply scheme has been entrusted to the Chief Engineer for execution, he shall have sole authority in all matters connected with its construction in general accordance with the approved plans and estimates. Should any large modification of the approved proposals be found necessary he shall obtain the approval of the local authority to them before carrying them out.

### 8. *Chief Engineer's responsibility for cost of Works.*

The Chief Engineer shall exercise all due economy in executing the works, but shall not be responsible for any excesses or accidents which may occur.

## \* PART XI.

### *Powers and Duties of a River Board in accordance with sections twenty-seven and twenty-eight of the Act.*

1. In this part of the regulations "original farm" shall mean a farm held under an original grant or deed of transfer of such grant.

2. No person entitled to the use of water from any river or stream under the control of a river board shall, after the date of publication of these regulations, construct any work to divert or abstract water from any such river or stream, or alter any such works existing prior to the date of publication of the regulations, or alter or interfere with the sources or course of any such river or stream except in such manner and under such conditions as shall be prescribed by the river board and in accordance with a permit which shall be issued by it.

3. The river board shall, as soon as possible after the date of publication of these regulations, allot in accordance with established rights to all areas usually

\* Added by Proc. (Admn.) No. 24 of 1910.



and ordinarily irrigated from the stream within the river district, or to the persons using water within the district, such amount or share of water as is in the opinion of the river board necessary for the due and proper irrigation of such areas or necessary for the requirements of such persons, and shall regulate the water of the stream under its control in such a way as to secure as far as possible the proper irrigation of such areas, or the fulfilment of the requirements of such persons.

The allotment of water in this manner by the river board shall not be held to imply that the amount or share of water so allotted in respect of any area or for the requirements of any person is necessarily the amount or share of water to which such area or person is entitled by virtue of riparian rights.

4. The river board shall keep a register of all water furrows or other appliances for abstracting water from the river or stream within the river district on the form prescribed (Annexure "A"), and shall enter therein full particulars of the furrows or other appliances for abstracting water referred to, the amount and share of water that may be so abstracted from the river or stream, and the particulars of the amount or share of water which any farm or farms may take from the furrow or other appliances for abstraction in question.

The furrows or other appliances for abstracting water shall, as far as possible, be numbered consecutively from the upper to the lower end of the river district. The register shall be corrected and revised from time to time in any way rendered necessary by any authorized alteration in the furrows or other appliances for abstracting water or by the creation of new appliances for abstracting water or by any definition of riparian rights duly entered in the register of rights (Annexure "B"), and shall form the basis upon which the river board shall regulate the water of the stream within the river district.

5. The river board shall, on the application of any proprietor of land within the river district, investigate and define the rights to the use of water of any farm or part of a farm within its district in accordance with the provisions of the Act, and particularly Chapter III thereof, with due regard to all existing rights under servitude, agreement, or other mode of acquisition.

The Department may, on the application of any river board, furnish to such board diagrams of the farms riparian to the river or stream under the control of the river board, together with a list of the various registered owners of land included in the river district.

In making such investigation the river board shall first consider the rights to the use of water of original farms, and shall then investigate the rights to the use of water of the sub-divisions of the original farms.

A schedule of the rights determined by such investigation shall be tabulated in the form set out in Annexure "B", and shall be posted at the office of the river board and at all post offices within the river district and such other places as the river board may determine, together with a notice stating the date, hour, and place at which the river board will investigate any objections to the schedule of rights proposed. All objections to the schedule proposed shall be submitted in writing to the river board at least one clear week before the date so fixed, and the date on which such objections should be heard shall not be less than one month after the date of the first posting of the schedule referred to.

6. On the hearing of objections, the river board shall take such steps as it deems necessary to make the schedule correct and complete. Such schedule when corrected and completed shall be deemed to represent the rights of those farms to the use of water which the schedule purports to define only after it has been adopted by a resolution at a meeting of the river board.

A copy of the corrected schedule referred to, as well as copies of all revised schedules, shall be forwarded to the Department.

7. As soon as such schedule shall have been completed and accepted or passed as correct by order of a competent court, the river board shall enter the particulars of such schedule in the "register of rights" (Annexure "B") and, in the event of special provisions for water-rights of farms or sub-divisions of farms by virtue of agreement or servitude, a reference shall be made in the column on the form provided for that purpose to the agreement or servitude and its place on the register of servitudes.

The register of rights shall be revised from time to time in such manner as may be rendered necessary by order of a competent court or by reason of the registration at the office of the river board of any servitudes or agreements with regard to the use of water.

8. The amount or share of water which any appliance for the abstraction of water may abstract or which any farm may take shall not be greater than that prescribed from time to time in the two registers referred to above (Annexures "A" and "B") without the special permission of the river board, and, in the case of water required for irrigation, shall also not be greater than that necessary in the opinion of the river board for the proper irrigation of the cultivated area which is at the time being irrigated.

9. The river board may from time to time prepare or alter a schedule showing the times at and rotation on which any furrow, or appliance for the abstraction of water, may take water from the public stream within the river district, and also the times at and rotation on which any land shall be irrigated. Provided, however, that the total amount of water allotted to any land during a rotation period prescribed by the schedule shall not be less than that to which such land is entitled. Such schedule shall be posted at the office of the river board and at all post offices within the river district and at such other places as the river board may determine, and shall come into force not earlier than three days after the date of posting.

10. The river board shall keep a register in the form prescribed in Annexure "C" of all permits for the diversion or storage of surplus water or for the use of water to develop power from rivers or streams under its control, and shall also obtain from the persons to whom permits have been granted full working plans of the works constructed in pursuance of such permits, and such plans shall be retained and recorded in the office of the board.

11. Copies of all the registers or schedules mentioned in these regulations shall be open to inspection at the office of the river board free of charge at all reasonable times.





(Part XI.)

ANNEXURE C.

Register of Permits to Divert or Store Surplus Water or to Use Water for Power.

.....River District.....		.....River.....	
1	Consecutive Number.		
2	Date of Application.		
3	Date of Grant.		
4	By whom Granted.		
5	Site of Storage Dam.	Storage.	
6	Full Supply Contents of Reservoir.		
7	Amount of Water which may be stored.		
8	Constant Supply which must pass the Dam.		
9	Purpose for which water is used.		
10	Site of Diversion Weir.	Diversion.	
11	Amount of surplus water which may be diverted.		
12	Time during which diversion may be effected.		
13	Purpose for which water is used.		
14	Place at which water is taken from River.	Power.	
15	Place at which water is returned to River.		
16	Type of Machine.		
17	H.P. to be Developed.		
18	Head under which Machine will work.		
19	Quantity of water required.		
20	Purpose for which Power is used.		
21	Reference to Register of Servitudes.		
22	Reference to Register of Rights.		
23	Reference to Register of Furrows.		
24	Remarks.		

Act No. 28 of 1908.]

[Promulgated 2nd September, 1908.]

## AN ACT

TO AMEND THE EDUCATION ACT, 1907.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Amendment  
of section  
*thirty-eight*  
of Act No. 25  
of 1907.

1. Section *thirty-eight* of the Education Act 1907 shall be and is hereby amended by the deletion of the proviso to sub-section (2) thereof and the substitution for such proviso of the following words:—

*For text see Act No. 25, 1907, section thirty-eight (2).*

Amendment  
of section  
*sixty-seven*  
of Act No. 25 of  
1907.

2. Section *sixty-seven* of the said Act shall be and is hereby amended by the addition at the end of sub-section (1) thereof of the following words:—

*For text see Act No. 25, 1907, section sixty-seven (1).*

and by the omission therefrom of sub-section (2) and the insertion in place thereof of a new sub-section (2) as follows:—

*For text see Act No. 25, 1907, section sixty-seven (2).*

Amendment  
of sections  
*sixty-eight*  
and *sixty-nine*  
of Act No. 25  
of 1907.

3. Section *sixty-eight* of the said Act shall be and is hereby amended by the omission therefrom of the figure “(1)” in line six thereof and the omission of sub-section (2) thereof and section *sixty-nine* of the said Act shall be and is hereby amended by the omission therefrom of all the words after “regulation”.

Title and date  
of operation  
of Act.

4. This Act may be cited for all purposes as the Education Act Amendment Act 1908, shall come into operation on the date of its first publication as an Act in the *Gazette*,\* and shall be read as one with the Education Act 1907.

\* This date was the 2nd September, 1908.

Act No. 29 of 1908.] [Promulgated 2nd September, 1908,]

\*AN ACT.

TO CONSOLIDATE AND AMEND THE LAW GOVERNING THE REGISTRATION OF MINING TITLES IN THIS COLONY, AND FOR OTHER PURPOSES.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Proclamation (Transvaal) No. 25 of 1902, Ordinance No. 6 of 1902, and Ordinance No. 6 of 1903 shall be and are hereby repealed; provided that notwithstanding such repeal the provisions of the laws repealed and the regulations made thereunder shall continue in force so far as they relate to matters connected with or incidental to those stands or leasehold lots in townships for which a freehold title may be obtained under the Townships Amendment Act 1908, until such freehold title is so obtained; provided further that the powers, duties, and jurisdiction of the Registrar of Mining Rights under the laws repealed by this section shall be exercised as regards such townships and the stands and leasehold lots therein, by the Rand Townships Registrar and be carried on in the Rand Townships Registration Office mentioned in section *fifty-three* of the said Act.

Repeal of laws.

† 16. Whenever prior to the publication of this Act in the *Gazette*, any District Registrar, Assistant District Registrar, or Beacon Inspector appointed under the laws hereby repealed, shall have issued or renewed for his mining district or division thereof prospecting or digger's licences, bona fide acting in the belief that he was empowered by law to issue or renew such licences, the same shall, notwithstanding anything in such laws contained, be deemed to have been validly issued or renewed (as the case may be) and it shall be lawful for the officers in this section described to continue, until the date when the Precious and Base Metals Act 1908 comes into operation, to issue and renew any such licences.

Validation of issue or renewal of licences by District Registrars, etc.

\* The whole Act, except sec. 1 and 16, has been repealed by Act No. 25 of 1909. sec. 1.

† This section came into operation on 2nd Sept., 1908, in accordance with sec. 18 of this Act.

Act No. 30 of 1908.]

[Promulgated 2nd September, 1908.]

## AN ACT

TO AMEND THE LAW RELATING TO COURTS OF RESIDENT  
MAGISTRATE.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. In this Act;

"Governor" shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council thereof;

"principal law" shall mean the Magistrates Court Proclamation 1902.

\*2. (1) Sections *fifty-three to sixty-three* inclusive of the principal law shall be and are hereby repealed as from a date to be fixed by the Governor by notice in the *Gazette*, and from that date courts of resident magistrate shall be established for each of the districts herein mentioned, that is to say:—

The District of Johannesburg at Johannesburg;  
the District of Boksburg at Boksburg;  
the District of Germiston at Germiston;  
the District of Krugersdorp at Krugersdorp.

(2) The local limits of jurisdiction of each of such districts shall be as defined by like notice and such courts when established shall be deemed to be courts of resident magistrate established under the principal law.

(3) All records, proceedings, judgments, and sentences of any court of landdrost or resident magistrate which formerly existed within the area now known as the Witwatersrand District, shall be kept and preserved of record in the court of resident magistrate for the district by this section established and comprising the place where such former court was held; and all such records, proceedings, judgments, and sentences shall be deemed to be for all purposes, records, proceedings, judgments, and sentences of that court of resident magistrate.

\* The date was fixed on 1st July, 1909, by Govt. Notice No. 643 of 1909 (*Gazettes*, 11/6/09 and 18/6/09, erratum).

Interpreta-  
tion of terms.

Repeal of  
sections  
*fifty-three to  
sixty-three*  
inclusive  
of Procla-  
mation  
(Transvaal)  
No. 21 of  
1902 and  
establishment  
of courts of  
resident  
magistrate  
for other  
districts.



3. The Governor may from time to time appoint for the district of Johannesburg, in addition to a resident magistrate and assistant resident magistrates, persons, duly qualified, to be styled civil or criminal magistrates, each of whom shall be subordinate to the resident magistrate of such district and shall have and exercise therein all powers, duties and authorities (whether administrative or judicial) conferred or imposed on resident magistrates by the principal law or any amendment thereof or any other law and shall hear and determine all such cases and proceedings as may be assigned to him by such resident magistrate. Wherever in any law the court of any civil magistrate at Johannesburg is referred to, the court of the resident magistrate for Johannesburg shall be deemed to be meant thereby, and whenever in any law any power, duty, or jurisdiction is conferred or imposed on the chief magistrate of the Witwatersrand district, such power, duty, or jurisdiction is hereby conferred or imposed on the resident magistrate of the district of Johannesburg.

Special provisions as to district of Johannesburg.

4. Anything to the contrary notwithstanding in section *eleven* of the principal law contained, a criminal trial of any person under the age of sixteen years may be conducted by a court of resident magistrate in private.

Power to try juvenile offenders in private.

\*5. Notwithstanding anything in section *eleven* of the principal law contained, the Governor may declare by proclamation in the *Gazette* in respect of courts of resident magistrate in any district that:—

Use of Dutch language equally with English language in courts of resident magistrate specially proclaimed by Governor.

(a) in all proceedings, civil or criminal, any parties to such proceedings or their counsel, attorneys, or agents may use either the English or the Dutch language in the conduct of such proceedings in court, and any witnesses may give their evidence in either such language;

(b) either the English or the Dutch language may be used in any summons, notice, or process, or in any document referred to in such summons, notice, or process;

provided that if it shall appear to the officer issuing such summons, notice, or process, from his personal knowledge or otherwise, that the person upon whom it is intended to be served is sufficiently acquainted with the one language to understand the purport of the same if drawn in that language, and is so insufficiently acquainted with the other as not to understand the purport of the same if drawn in that other language, such officer may, in his discretion, issue such summons, notice, process, or document in the one of the two languages with which it appears to him that the said person is the better acquainted.

6. Section *six* of the Magistrates' Court Proclamation Amendment Ordinance 1904 shall be and is hereby amended by the addition to such section of the following new subsection (10):—

Amendment of section *six* of Ordinance No. 12 of 1904.

\* By Proc. (Admn.) No. 32 of 1909 the provisions of sec. 5 were to apply from 16th April, 1909, to all courts of resident magistrates in the Transvaal, save and except those courts which are held within the Witwatersrand District; see, however, also South Africa Act, 1909, sec. 137.

*For text see Ordinance No. 12, 1904, section six (10).*

Amendment  
of section  
*thirty-three* of  
Proclamation  
(Transvaal)  
No. 21 of  
1902.

7. Section *thirty-three* of the principal law shall be and is hereby amended by the deletion of the proviso to such section and the addition thereto of the following:—

*For text see Transvaal Proclamation No. 21, 1902, section thirty-three.*

Title and date  
of operation  
of Act.

8. This Act may be cited for all purposes as the Magistrates' Courts Amendment Act 1908, and save as to section *five* shall come into operation on a date to be fixed by the Governor by proclamation in the *Gazette* and as to section *five* shall come into operation six months after such date.\*

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\* This date was the 15th Oct., 1908. See Proc. 86, Admn. 1908 (*Gazette*, 9th Oct., 1908, p. 50).

Act No. 31 of 1908.]

[Promulgated 2nd September, 1908.]

## AN ACT

TO AMEND THE PRECIOUS STONES ORDINANCE, 1903.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Sections *twenty-nine* to *thirty-one* inclusive of the Precious Stones Ordinance 1903, shall be and are hereby repealed.

Repeal of sections *twenty-nine* to *thirty-one* inclusive of Ordinance No. 66 of 1903.

2. (1) Where a mine mentioned in section *twenty-two* of the said Ordinance is worked by the owner (as in such section and in section *twenty-eight* of the said Ordinance described), the realized profits derived from its working shall be divisible between the Crown and the owner in the proportions of their respective shares in the mine; provided that the Crown shall not be entitled to receive any share of such profits until the owner shall have been repaid thereout any capital expended by him in or for the purposes of the mine together with interest thereon. (computed from the date of expenditure) at the same rate as may have been incurred or borne by the owner in respect of the raising of such capital but not exceeding the rate of ten per cent. per annum.

Method of calculating and dividing between the Crown and the owner the profits of a mine on private land.

(2) When such mine is worked by the owner he shall keep all books and accounts proper and necessary to the working, and such accounts shall be made up annually to such date as may be agreed between the Colonial Treasurer and the owner.

(3) In this section capital shall have the meaning assigned to it in section *four* of the Profits Tax (Gold Mining) Proclamation 1902 or any amendment thereof. A loss made in any accounting year shall be carried forward and set off against the profits of any succeeding years.

(4) A division of the realized profits of any mine between the Crown and the owner shall be deemed to be due and shall be made for every accounting year as soon as the profits of such year have been ascertained; provided that, whenever any owner appropriates or distributes profits from the working of the mine, he shall also pay to the Crown its proportion of such profits.

- “hawker” shall have the meaning assigned to such term in the Revenue Licences Ordinance 1905;
- “Health Committee” shall mean a committee constituted under and by virtue of the Epidemic Disease and Hospital Committees Ordinance 1905 or any amendment thereof;
- “Municipal Council” shall mean the Council of a Municipality established under any law;
- “open,” in relation to a shop, shall mean open for admission to a person for the purpose of selling or supplying to him in such shop any goods or merchandise;
- “pedlar” shall have the meaning assigned to such term in the Revenue Licences Ordinance 1905;
- “public holiday” shall mean any day prescribed as such by section *two* of the Public Holidays Ordinance 1903, or any day appointed as a public holiday under the provisions of section *three* of the said Ordinance;
- “shop” shall mean any building, structure, room, market stall, tent, booth, vehicle or any place whatever if such building, structure, room, market stall, tent, booth, vehicle or other place be used for the sale therein, thereon, or therefrom of merchandise or goods or as a hairdressing saloon, but shall not include any premises licensed for the sale of intoxicating liquors under the provisions of the Liquor Licensing Ordinance 1902, or any amendment thereof;
- “shop assistant” shall include a salesman and saleswoman, shopwalker and any other person engaged in any shop in or about the selling or supplying to customers of merchandise or goods or engaged in or about the preparation of the same for sale or supply in such shop;
- “shopkeeper,” in relation to a shop, shall mean its owner or the representative for the time being of such owner in the business carried on in the shop;
- “tobacconist” shall mean a person who sells or carries on business in tobacco, cigars, cigarettes, pipes and such goods as are by the general custom of trade usually sold in connection with the business of a tobacconist.

Open time for shops in Pretoria and on Witwatersrand area.

\* 4. No shop in which any business (other than a business mentioned in section *six* or in the Schedule to this Act) is conducted within the Municipalities of Pretoria, Johannesburg, Boksburg, Germiston, Krugersdorp, Roodepoort-Maraisburg, Springs, and Benoni, and within a distance of five miles from the nearest boundary of any such municipality shall be permitted to remain open

- (a) later than seven o'clock in the evening on Mondays, Tuesdays, Thursdays and Fridays;
- (b) later than one o'clock in the afternoon on Wednesdays;

\* This section applied to municipality of Witbank by Act No. 14 of 1910, sec. 2; see also sec. 4 of the same Act.

(c) later than nine o'clock in the evening on Saturdays; provided that shops in which wholesale trade is carried on exclusively shall be permitted to be open on Wednesdays till seven o'clock p.m. if they are closed not later than one o'clock p.m. on Saturdays.

\*†5. No shop in which any business (other than a business mentioned in section *six* or in the Schedule to this Act) is conducted in any Municipality or area under the jurisdiction of any Village Council or Health Committee (except the Municipalities and places specified in section *four*) or within a distance of five miles from the boundary of any such Municipality or area shall be permitted to remain open later than six o'clock in the evening on any day of the week except Saturday, on which day they shall be permitted to remain open not later than seven o'clock in the evening, unless Saturday be set apart as the day on which a half-holiday is to be observed in any particular Municipality. And all shops so situated as in this section mentioned shall observe one half-holiday in every week upon which they shall not be permitted to remain open later than one o'clock in the afternoon, such half-holiday to be observed in each individual place as shall be notified by the Governor in the *Gazette* after consultation with the Municipal Council, Village Council or Health Committee and the Chamber of Commerce or any other similar association (if any) in the particular town or village concerned, provided that on such day the closing hours prescribed for Wednesdays in the Schedule to this Act shall apply; and provided further that in all towns or villages where Wednesday is not observed as a half-holiday the closing hours prescribed for Tuesdays in the Schedule to this Act shall apply to Wednesdays.

Open time for shops in other areas.

6. *Repealed by Act No. 14, 1910, section one.*

Exemptions.

7. No shop in which is carried on any business mentioned in the first column of the Schedule to this Act shall be permitted to remain open later than the hours prescribed respectively for the several days in the second, third, fourth, fifth, sixth, seventh, and eighth columns of the said Schedule in respect of such business; provided that in any shop where the business of a chemist or druggist is carried on, medical requirements may be supplied at any hour on weekdays Sundays and public holidays upon special call.

Special hours for closing certain shops.

8. No shop (other than a shop which by Law No. 28 of 1896 or any amendment thereof may be open on Sundays) shall be permitted to be open on a public holiday, and no shop which by such Law or amendment thereof may be open on a Sunday shall be permitted to be open on a public holiday at any time other than the hours prescribed for it by such Law

Closing of shops on public holidays.

\* For notification of weekly half-holiday mentioned in this section see Govt. Notice 1002 of 1908 (*Gazette*, 2nd Oct., 1908, p. 10); for weekly half-holiday Amsterdam municipality see Govt. Notice No. 1305 of 1909 (*Gazette*, 19/11/09).

† See Act No. 14 of 1910, sec. 4.

or amendment thereof; provided that all shops shall, notwithstanding anything to the contrary in this Act or the Schedule contained, be permitted to be open on any day preceding a public holiday (not being a Sunday) up to but not later than the hours prescribed for closing on Saturdays for each particular class of trade or business.

Saving as to certain days and circumstances.

9. (1) Notwithstanding anything in this Act or the Schedule contained it shall be lawful to keep open any shop not later than the hour prescribed in respect of it for Saturday as the closing hour on any day between the twenty-second and thirty-first days of December, both days inclusive, provided any such day be not a public holiday; provided further that on the twenty-fourth day of December (not being a Sunday or public holiday) shops shall be permitted to be open not later than eleven o'clock in the evening.

(2) The sale of goods and merchandise to any person who has for the purpose of making a purchase entered a shop on any day on which it may be open, before the hour as in this Act or the Schedule prescribed as the latest hour for keeping open such shop on such day shall not be deemed to be a contravention of this Act, provided such sale shall be complete within a reasonable time (not exceeding half an hour) after such closing hour.

Limitation of hours for auctioneers, pedlars, and hawkers.

10. No auctioneer, pedlar, or hawker shall be permitted to carry on his trade or business on any public holiday or on any other day later than the hour prescribed as the closing hour in respect of the particular class of trade or business in which such auctioneer, pedlar, or hawker may be engaged or be doing business, and the provisions of this Act in regard to the closing of shops shall *mutatis mutandis* apply to the closing of the business of auctioneers, pedlars, and hawkers.

Sale in eating-houses, etc., after closing hours prohibited except as to food, etc., consumed on premises.

11. *Repealed by Act No. 14, 1910, section one.*

Closing hours of shops doing mixed business.

12. No shopkeeper or hairdresser in whose shop any mixed trade or business is carried on, shall sell or supply or permit to be sold or supplied, any particular class of goods or merchandise at any hours later than those prescribed in this Act for trade in such goods or merchandise, notwithstanding that such shop may lawfully remain open at such later hours under this Act for the sale of any other class of goods or merchandise.

Limiting hours of shop assistants.

13. No shopkeeper shall employ or keep at work any shop assistant for more than fifty-four hours per week in any shop, whether such employment or work be under special contract or for any special payment or not.

Penalties.

14. (1) Any person contravening any of the provisions of this Act shall be liable on a first conviction to a fine not

exceeding fifteen pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding one month, and in the case of a second or subsequent conviction to a fine not exceeding fifty pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

(2) In the event of any contravention of the provisions of this Act by a company, the managing director or person having the management or control of the shop in which the contravention was committed shall be liable to the penalties provided therefor, and in the event of any such contravention by a partnership each partner shall be liable to the penalties provided therefor.

(3) Every shopkeeper or hairdresser shall be liable to the penalties prescribed for a contravention of any of the provisions of this Act committed in his shop or hairdressing saloon, whether or not he was present and expressly or impliedly permitted such contravention, unless he shall prove to the satisfaction of the Court that he forbade the act or omission constituting such contravention, and every other person who at the time of such contravention was actually in charge of such shop shall be liable to such penalties; provided that both the shopkeeper or hairdresser and such other person shall not be subjected to such penalties.

15. No prosecution for any contravention of any of the provisions of this Act shall be instituted after the lapse of one month from the time when such contravention was committed.

Limitation of time for prosecution of offences against Act.

16. This Act may be cited for all purposes as the Shop Hours Act 1908 and shall come into operation on the first day of October, 1908.

Title and date of operation of Act.

## SCHEDULE.\*

BUSINESS.	Monday.	Tuesday.	Wednesday.	Thursday.	Friday.	Saturday.	Sunday.
Chemist and Druggist } not later than ..	8 p.m.	8 p.m.	1 p.m., and between 7 p.m. and 8 p.m.	8 p.m.	8 p.m.	9 p.m.	10 a.m. to 12 noon, 5.30 p.m. to 7.30 p.m.
Butcher Fishmonger Poulterer } not later than ..	7 p.m.	7 p.m.	1 p.m.	7 p.m.	7 p.m.	9 p.m.	Not to open.
Hairdresser, not later than ..	7 p.m.	7 p.m.	2 p.m.	7 p.m.	7 p.m.	9 p.m.	Not to open.
Tobacconist, not later than ..	8 p.m.	8 p.m.	2 p.m.	8 p.m.	8 p.m.	10 p.m.	Not to open.
Newspaper Vendor, not later than	8 p.m.	8 p.m.	2 p.m.	8 p.m.	8 p.m.	10 p.m.	Not to open.
†Kaffir eating-house, not later than	8 p.m.	8 p.m.	8 p.m.	8 p.m.	8 p.m.	8 p.m.	Not later than 8 p.m.

\* As amended by Act No. 29 of 1909, sec. 3 (2).

† As amended by Act No. 14 of 1910, sec. 1.



Act No. 33 of 1908.] [Promulgated 2nd September, 1908.]

AN ACT

TO PROVIDE FOR THE ADMISSION OF LAW AGENTS AS ATTORNEYS  
OF THE SUPREME COURT.

Assented to 22nd August, 1908.

WHEREAS certain persons were after examination admitted to practise as law agents in the courts of landdrost of the late South African Republic and such persons have been eligible for admission and enrolment as law agents in courts of resident magistrates in this Colony;

And whereas the further admission of law agents to practise in the courts of resident magistrate in this Colony has been discontinued and it is desirable to provide facilities for the enrolment after examination of such law agents as attorneys of the Supreme Court of The Transvaal.

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of The Transvaal as follows:—

1. At any time within four years from the date of the taking effect of this Act any person who has been enrolled and admitted to practise as an admitted law agent in any of the Courts of The Transvaal and who is not under any order of suspension and whose name is not removed from the roll for misconduct or irregular practices shall on application to the Supreme Court be admitted as an attorney of the Supreme Court; provided that he gives satisfactory proof that he has passed the examination in law and jurisprudence of the University of the Cape of Good Hope or any examination of the Orange River Colony or of the late Orange Free State for the admission of attorneys or the Transvaal Law Certificate Examination or such special examination in law as is hereinafter described.

Law agents may be admitted as attorneys on passing an examination in law.

\* 2. Within three months after the date of the taking effect of this Act and thereafter at intervals of not more than six months within the said period of four years if an application be made to the Registrar of the Supreme Court by any admitted law agent desirous of qualifying under this Act for admission as an attorney there shall be held for that purpose

Special examination in law for law agents to be held every six months for four years.

\* For date of first examination and syllabus see Govt. Notice No. 941 of 1908 (*Gazette*, 18/9/08, p. 1020). See also Govt. Notices Nos. 1232 of 1908 (*Gazette*, 11/12/08), 1452 of 1909 (*Gazette*, 24/12/09).

at Pretoria a special examination in law by three examiners of whom two shall be appointed by the Chief Justice of The Transvaal and the third by the Council of the Incorporated Law Society of The Transvaal and each candidate at such examination shall pay such fees to the said Registrar to defray the expense of holding the same as may be fixed by the said Chief Justice.

Special examination for law agents to be equivalent to Transvaal Law Certificate Examination.

3. The said special examination shall be equivalent to the Transvaal Law Certificate Examination and shall as far as possible be a practical examination and such as will in the opinion of the examiners best test the fitness of the candidates for admission to the practice of the profession of attorney.

Title.

4. This Act may be cited for all purposes as the Admission of Law Agents as Attorneys Act 1908.

Act No. 34 of 1908.] [Promulgated 2nd and 18th Sept., 1908.

\* AN ACT

TO AMEND THE TOWNSHIPS ACT 1907, TO PROVIDE FOR THE ESTABLISHMENT OF NEW TOWNSHIPS ON PROCLAIMED LAND AND IN MUNICIPALITIES, AND TO EFFECT CONVERSION OF TITLE IN CERTAIN TOWNSHIP LOTS TO FREEHOLD.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

PRELIMINARY.

1. (1) In this Act unless inconsistent with the context or with the principal law;

Interpreta-  
tion of terms.

“commencement of this Act” shall mean the date of the coming into operation of this Act;

“Council” shall mean the Council of the Municipality within which any township is situate;

“Crown Land” shall have the same meaning as is assigned to that expression in the Crown Land Disposal Ordinance, 1903;

“Mining Commissioner” shall mean in relation to any township the Mining Commissioner for the mining district in which such township is situate;

“mining district” shall have the same meaning as is assigned to it in the Precious and Base Metals Act 1908 and, when used in relation to any township or a stand or lot in a township, shall mean the mining district in which the same is situate;

“Municipality” shall mean, in relation to a township, the Municipality within which such township is situate;

“principal law” shall mean the Townships Act 1907;

“proclaimed land” shall have the same meaning as is assigned to that term in the Precious and Base Metals Act 1908, or any amendment thereof; and shall also include land proclaimed an alluvial digging under the Precious Stones Ordinance 1903 or any amendment thereof;

“Schedule” shall mean Schedule to this Act;

“stand” shall include a portion of a stand held under separate title;

\* See Act No. 30 of 1909.

“stand township” shall mean any township mentioned in the First Schedule to this Act;

“*voorkeurrecht* title” shall include any transfer of such title;

the expression “Law No. 15 of 1898” shall include any amendment thereof expressed or implied by the Registration of Mining Rights Proclamation 1902, Ordinance No. 6 of 1902 and Ordinance No. 6 of 1903.

(2) Save as may in this Act otherwise appear from the context, any expression defined in and for the purposes of the principal law and used also in this Act, shall, when so used, bear the same meaning as is assigned to it in the principal law.

(3) “Deeds Office” and “Registrar of Deeds” in the principal law except in section *three* thereof shall be construed for the purposes of this Act as meaning respectively the registration office in which titles affecting land in townships are registered under this Act and the registering officer under this Act.

Application  
of Act.

2. (1) The provisions of section *fourteen* of the principal law shall be and are hereby amended by the deletion of sub-section (1) and paragraph (c) of sub-section (2) thereof.

~~(2) The provisions of section *twelve* of the principal law shall apply to any township for which a local authority is constituted, if and so long as such local authority has no power to levy assessment rates on land therein.~~

(3) After the commencement of this Act no township shall be established except in accordance with the provisions of the principal law as amended by this Act.

Certain  
provisions of  
Law No. 15  
of 1898 as to  
stands in  
stand town-  
ships to re-  
main in force  
for certain  
purposes.

3. (1) The provisions of Law No. 15 of 1898 which were in force on the day immediately preceding the commencement of this Act, save in so far as they are expressly amended, with regard to stands in stand townships, shall notwithstanding the repeal of such law be deemed to remain in force in regard to every such stand until a certificate of freehold title or deed of grant is issued in respect thereof under Part II of Chapter III of this Act, and the administration of and control over every such stand shall, until the issue of the said certificate, continue to be exercised by the Mining Commissioner or other officer in manner provided by the said law.

(2) Nothing in this section contained shall subject the Government of this Colony to any provision of the said law with regard to the disposal of stands in stand townships on Crown land if the *voorkeurrecht* or leasehold title thereto has not been sold or disposed of, or has lapsed to the Government.

(3) Nothing in this section contained shall prevent the Governor from disposing of any stand in a stand township under the provisions of the Crown Land Disposal Ordinance 1903 or any amendment thereof, and where prior to the commencement of this Act any such stand has been so disposed of,

the grant of such stand shall be deemed to be valid for all purposes if registered as is by this Act or any other law provided.

(4) Where prior to the commencement of this Act a stand or the use of a stand in a Government township has been granted to any religious, educational, charitable, or benevolent body, subject to any conditions, the Governor may issue to such body a deed of grant of freehold title to such land, and may, upon the request of such body, remove, annul, alter or amend any such conditions.

\*4. (1) *Notwithstanding anything to the contrary in any law every township or sub-division of land into lots within fields or public diggings proclaimed under Law No. 15 of 1898 or any prior law relating to precious metals, shall be deemed to be a lawfully established township if—*

Validation of existing townships and registration of lots and stands therein.

(a) *the laying out thereof was effected by the Government ; or*

(b) *a general plan of such a township or sub-division of land into lots has been confirmed or approved by the Surveyor-General ; or*

(c) *transfers or leases, transfers or cessions of leases or any other documents proper for registration under any laws or regulations heretofore in force have been registered since the sixth day of June, 1902, whether such registration has taken place in the Deeds Office or the Registration of Mining Rights Office or the Offices of the District Registrars or Mining Commissioners.*

(2) *Notwithstanding any law or practice heretofore in force or prevailing, every registration of any document described in paragraph (c) of sub-section (1) shall be deemed to be as lawful and valid as if the township or sub-division of land into lots had been specifically approved by the Governor or by the Government of the South African Republic.*

## CHAPTER I.

### ESTABLISHMENT OF NEW TOWNSHIPS ON PUBLIC DIGGINGS AND IN MUNICIPALITIES.

5. (1) *Save as in this section is provided, no township may be established or laid out on any proclaimed land unless such land has been reserved by the Mining Commissioner for such purpose, and every Mining Commissioner is hereby authorised to reserve for township purposes proclaimed land, not held under mining title subject to confirmation by the Minister of Mines.*

Establishment of townships on proclaimed land.

(2) *The Governor may, whenever it is necessary in the public interest, cause a township to be established upon any proclaimed land not held under mining title.*

\* This section substituted by Act No. 30 of 1909, sec. 1.

(3) The Governor may under like circumstances cause a township to be established on land held under mining title, if, in the opinion of the Minister of Mines, no interference would thereby be caused to mining.

(4) Where the proclaimed land, upon which the Governor may cause a township to be established, is private land—

(a) the Mining Commissioner shall consult the owner thereof (if possible) and if such land be held under mining title the holder thereof also (if possible):

(b) thereupon the Mining Commissioner shall give the said owner written notice requiring him to make application in respect of such area as may be specified by the Mining Commissioner under section *five* of the principal law, which law shall *mutatis mutandis* apply. If the said owner fail within three months after receiving such notice to make such application, or, having made such application, fails to carry out the requirements of sections *five*, *seven*, and *eight* of the principal law, the Mining Commissioner shall, after the expiry of the said period, make such application and carry out such requirements;

(c) if such township has been declared an approved township under section *seven* of the principal law, the owner may be required to sell any or all of the lots therein in manner and subject to conditions approved by the Governor; and if such owner fails so to do, the Governor may cause the freehold interest in such lots to be sold at public auction by the Mining Commissioner; whereupon the purchase price of every lot sold at such auction shall be paid to the owner after deducting the costs of survey, sale, and registration which have necessarily been incurred by the Mining Commissioner prior to such sale.

(5) The freehold interest in any lots in such township shall not include the right to minerals, mineral products, or precious stones thereon or thereunder.

6 (1) Subject to the provisions of the last preceding section the owner of land situate within a Municipality who proposes to establish a township thereon, shall make application to the Minister under the provisions of section *five* of the principal law and the provisions of that and the next succeeding section shall thereupon apply, except that the board, before making recommendations to the Minister under section *six* of the principal law, shall transmit the application with all particulars obtained by it to the Council of the Municipality. The Council shall transmit to the Board information as to the requirements of the Council's bye-laws and the Board shall embody those requirements in its recommendations to the Minister but shall note those of the Council's requirements of which the Board does not approve.

(2) Notwithstanding that any requirement of the Council so recommended to the Minister is in accordance with the Council's bye-laws, the Minister may, if he think fit, modify any or all of the said requirements and declare the township to be an approved township with or without such modifications;

Establishment of townships within a Municipality.

in such event the Council shall have no remedy or right of prosecution under its bye-laws against the owner for any breach of its bye-laws if the modified requirements permit of such breach.

(3) Upon and after making application under section five of the principal law the owner shall not be required to comply with the provisions of any bye-law in force within the Municipality regulating the giving of notice and the deposit of plans in connection with the laying out of new townships.

7. Subject to the provisions of section five and notwithstanding anything in any law contained relating to the alienation by any Council of land or immovable property vested in it, a Council which desires to establish a township on lands vested in it, shall make application under section five of the principal law and thereupon such application shall be treated *mutatis mutandis* as made under the provisions of that law; provided that no reserves shall be made as by sub-section (1) (b) and sub-section (1) (c) of section eight of the principal law provided; provided further that the streets, squares and open spaces shown on the general plan mentioned in section seven of the principal law shall be deemed to be appropriated and set apart by proper authority for the use of the public when the township has been declared an approved township under section seven of the principal law.

Where Council of Municipality desires to establish township on lands vested in it.

## CHAPTER II.

### CONVERSION OF VOORKEURRECHT AND LEASEHOLD TITLE TO FREEHOLD TITLE

#### PART I.

##### *General Conversion Provisions.*

8. In this Chapter and in Chapter III the following expressions shall have the meanings herein respectively assigned to them:—

Definition of terms and expressions used in this Chapter and Chapter III.

- “Government township” shall mean a township situated on Crown Land and laid out under the provisions of Law No. 15 of 1898 or of any prior law, by the authority and on behalf of the Governor or of the Government of the late South African Republic;
- “private leasehold township” shall mean a township—
- (a) in which lots have been sold in leasehold; and
  - (b) in respect of which the Government receives no share of stand license moneys; and
  - (c) which is situate on land whereof the freehold is vested in some person other than the Crown or on Crown Land held under lease by such person; and

- (d) which has been laid out under contract or agreement with the Government or with the Government of the late South African Republic, or the existence whereof has been recognised by the Government by the registration after the sixth day of June, 1902, of leases and transfers of leases of lots therein ;
- \* “semi-Government township” shall mean any such township as is defined as a private leasehold township, laid out under the provisions of Law No. 15 of 1898 or of any prior law, but in which the Government receives or has been receiving some share or interest in the stand licence moneys or some fixed payment from the township owner under an agreement with him ;
- “private freehold township” shall mean a township on land whereof the freehold is vested in some person other than the Crown, situated in the mining district of Johannesburg, or of Krugersdorp or of Boksburg, if lots therein have been sold in freehold only ;
- “township owner” shall mean :—
- (a) any person other than the Crown who is the owner of the freehold of the land on which a township is situate and who has sold or leased lots therein ; or
- (b) any person who, not being the owner of such freehold, has acquired directly or indirectly from the owner of the freehold, the right to issue leases of stands or lots in such township and who has sold or leased lots therein ;
- “freehold owner” shall mean the owner of the freehold of any land (other than Crown Land) upon which a township is situated ;
- “registered holder” shall mean any person for the time being registered under the provisions of Law No. 15 of 1898 as the owner of any stand or lot in a township, or registered under a lease granted by a township owner ; and shall include any person who has entered into an agreement with the township owner for the purchase of the lease of any stand or lot ;
- “registered owner” shall mean a registered holder who has acquired under this Act the freehold of the stand or lot registered in his name ;
- “purchaser” shall mean any person
- (a) who either before or after the commencement of this Act has agreed with a township owner for the purchase of the freehold of any stand or lot in either a semi-Government township, a private leasehold township, or a private freehold township without having previously purchased a leasehold interest in such stand or lot ; and

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\* See, however, Act No. 30 of 1909, sec. 2 (for additional townships).



(b) who has not before the commencement of this Act received a transfer of such stand or lot in freehold ;

“registering officer” shall, with respect to townships and stands or lots therein situate in the mining districts of Johannesburg, Krugersdorp or Boksburg, mean the officer appointed under Chapter III Part I of this Act to register the freehold title to all stands or lots in townships situate within the said mining districts ; and, with regard to townships situate elsewhere in this Colony, shall mean the Registrar of Deeds ;

“value” as applied to a stand or lot shall mean

(a) the value of such stand or lot (exclusive of any buildings thereon) fixed as at the thirtieth day of June 1908 by the valuation roll of the Municipality in which it is situate ; or

(b) if no such valuation roll is in existence the valuation of stands or lots exclusive of buildings which the Governor has caused or may after the commencement of this Act cause to be made ;

“diagram” and “general plan” shall in each case mean a “diagram” (or as the case may be) a “general plan” prepared by a person lawfully admitted to practise as a land surveyor in this Colony, and approved by the Surveyor-General without publication ;

“confirmed diagram” and “confirmed general plan” shall mean a diagram or a general plan (as the case may be) confirmed by the Surveyor-General after notice of confirmation has been published for four consecutive weeks in the *Gazette*.

#### *Government Townships and semi-Government Townships.*

9. (1) From and after the commencement of this Act the stand licence moneys payable on any stand in a Government township before the commencement of the Act shall continue to be payable, but the registered holder shall have the right subject to the provisions of this Act to obtain a freehold title thereto in manner provided by this Act either—

Conditions on which freehold title may be obtained in existing Government townships.

(a) on payment of the sum calculated as shown in Table “A” of the Second Schedule to this Act ; or,

(b) after having paid stand licence moneys accruing after the commencement of this Act in respect of such stand for the number of months shown in Table “B” of the said Schedule.

(2) If such stand licence moneys are paid for a part of the time fixed by Table “B” of the Second Schedule, the registered holder shall at any time, be entitled to pay the balance of the sum as fixed by Table “A” after deducting the sums paid under Table “B.”

(3) If stand licence moneys are not paid when due upon any such stand the provisions of article *one hundred and four* of Law No. 15 of 1898 shall apply whether such stand is or is not a specially registered stand under the said law, and notwithstanding the repeal of the said law.

(4) Any stand sold under the provisions of sub-section (3) shall be sold in freehold and the balance of the proceeds of sale shall, after deducting the arrear and extra stand licence moneys and the sums payable and remaining unpaid under this section together with fines and expenses, be paid to the last registered holder of the stand unless there be a bond thereon: in such case so much of the balance shall be paid to the bondholder as may appear to be due to him.

10. (1) Notwithstanding anything in any lease or other contract contained, the registered holder of a stand in a semi-Government township shall be required to pay in respect of the share of stand licence moneys on the stand which may become due to the Government after the commencement of this Act, such amount only as is provided by sub-section (2), and the amount payable to the Government by the township owner, or the amount which the Government is entitled to retain in cases where stand licence moneys are collected by the Government, shall be diminished accordingly.

(2) The payment required under this section shall be as set forth in the Second Schedule that is to say—

(a) either the sum calculated as shown in Table "A" of such Schedule; or

(b) stand licence moneys for the number of months shown in Table "B" of such Schedule.

11. In semi-Government townships, where the Government receives a fixed annual payment and not a specified portion of the stand licence moneys, the Government may remit such payment if the township owner offers to grant freehold on terms approved by the Governor.

12. (1) The registered holder of any stand in a semi-Government township may agree with the township owner for the purchase of the freehold of such stand in the manner and subject to the conditions provided by section *fifteen* or section *sixteen* as if such township owner were the owner of a private leasehold township, and, on payment of the sum agreed upon with the township owner together with the sum fixed in section *ten*, the registered holder shall receive a freehold title to the land comprised in the said stand in the manner and subject to the conditions hereinafter provided.

(2) If the stand licence moneys in such semi-Government township are payable to the Government, the purchase price shall also be payable to the Government, and the Registering Officer shall issue receipts for all payments made by the registered holder.

13. (1) That portion of the farm Doornfontein No. 140, District Witwatersrand, commonly known as "Fairview" and "Johannesburg Extension", otherwise "Fawcus Township", bounded on the north by the township of Troyeville, on the east

Conditions under which payment of Government's share of stand licence moneys may be liquidated in semi-Government townships.

Remission of payments due to Government in certain cases.

Conditions for registered holder in semi-Government township obtaining freehold title.

Creation of semi-Government township at Fairview and

by the township of Malvern, and on the south by the township of Jeppes town, and being the land leased to one George Edward Fawcus by Frederick Jacobus Bezuidenhout senior by deed of lease dated the eighth day of March 1889, registered under No. 242 of 1903 and consisting of twenty-three morgen five hundred and eighteen square roods according to diagram S.G. No. 1740/03 framed by Surveyor E. W. Ferguson in July 1896 shall, for the purposes of this Act be deemed to be a semi-Government township under the name of "Fairview" and one Margaret Henrietta Fawcus, the assignee of such lease from the said George Edward Fawcus, shall, for the purposes of this Act, be deemed to be the township owner of the said township of Fairview.

extension of semi-Government township at Roodepoort.

(2) The portions of the farm Roodepoort No. 43, District Witwatersrand, which are included within the boundaries of the township of Roodepoort and held as stands under article *ninety-two* of Law No. 15 of 1898 shall, for the purposes of this Act, be deemed a part of the said township of Roodepoort.

(3) Until conversion into freehold of any stand to be incorporated into a semi-Government township under this section, has taken place, nothing in this section contained shall affect the title of such stand or the conditions upon which such stand is held.

14. All payments made in respect of stands in a Government township, or the Government's share of stand licence moneys in a semi-Government township, if the township be situate within a Municipality, shall be paid into a special account, and shall be set aside by the Colonial Treasurer for the Council of such Municipality for the purpose of such capital expenditure by such Council as the Governor may approve; provided that to moneys so set aside for the Council of the Municipality of Johannesburg there shall be added any sums by way of deposits forfeited under section *twenty-nine*; and provided further that, from the moneys so set aside for such Council, the Colonial Treasurer shall cause to be deducted the expenses of the survey of Government townships on the Government farm Randjeslaagte No. 138 and on the Government portions of the farm Braamfontein No. 127, District Witwatersrand, together with the expenses of the Arbitration Board appointed under section *twenty-eight*; that is to say, the remuneration paid to the members of such Board and other expenses incidental to the exercise by such Board of the duties assigned to it by the said section.

Application of payments to Government.

#### *Private Leasehold Townships.*

15. (1) Where a registered holder of a lot in any private leasehold township whereof the township owner is the owner of the unencumbered freehold, agrees or has agreed with the township owner for the purchase of the freehold of such lot and makes, or has heretofore made, payment on account thereof, the township owner shall lodge with the registering officer a

Mode of obtaining freehold in private leasehold townships.

duplicate copy of such agreement signed by the parties, unless the said agreement is embodied in the deed of lease registered in the office of the registering officer.

(2) The township owner shall also furnish the registered holder with a receipt in duplicate in the form set forth in the Third Schedule for all payments heretofore or hereafter made in respect of such agreement.

(3) It shall thereupon be the duty of the registered holder to lodge one copy of such receipt with the registering officer who shall note the payment in a suitable register. Any payment so made and duly noted by the registering officer shall be binding on any subsequent purchaser of the township or any creditor of the township owner.

(4) Upon the lodging of a receipt for the payment in full of the purchase price and upon the surrender by the registered holder of the leases of the said lot, the registered holder shall have the right to obtain a freehold title to the said lot in the manner and subject to the conditions by Chapter III provided. It shall also be the duty of the township owner to lodge his copy of the lease with the registering officer for cancellation.

Mode of obtaining freehold by agreement, in case of private leasehold townships where the township owner is not the owner of the un-encumbered freehold.

16. Where a registered holder of a lot in a leasehold township of which the township owner is not the freehold owner, or in which there exists a bond or other encumbrance over or on the land comprised in the township, has entered into an agreement with the township owner for the purchase of the freehold of a lot and the township owner has also entered into an agreement with the freehold owner or the mortgagee or other encumbrancer (if any), as the case may be, by which the parties thereto agree that freehold of lots in the township may be granted free of all encumbrances or subject to such encumbrances as the said parties may agree it shall be the duty of the township owner to lodge notarially certified copies of the said agreements with the registering officer. The said agreements shall specify a person to whom the payments due from the registered holder are to be made and such person may be the registering officer, and thereupon all payments made by the registered holder to such person shall be binding on all the said parties and their creditors and successors in title. The provisions of sub-sections (2) (3) and (4) of the last preceding section shall apply to lots falling within the provisions of this section.

Collection of licence money or rent by registering officer on behalf of township owner.

17. (1) It shall be lawful at any time after the commencement of this Act for any township owner who has offered freehold to registered holders upon terms approved by the Governor, to make written application to the registering officer requesting him to collect, on behalf of the applicant, all stand licence moneys or rent due or to become due in respect of stands or lots in such township and all instalments of purchase price due or to become due in respect of the purchase of the freehold of any such stands or lots, and, upon such application, and upon being furnished with all such leases and registers

of leases or other title and all books of account showing the sums payable upon each stand or lot in the township as the registering officer may require, such registering officer shall on behalf of such township owner collect such stand licence moneys rents or instalments and shall transmit to him the amounts collected either quarterly or half-yearly at the option of such township owner and without making any charge therefor.

(2) If any such stand licence moneys, rents, or instalments in respect of any stand are in arrear for a period of six months or for such longer period fixed by any lease or other agreement as the period at the expiry of which the lease may be cancelled owing to non-payment of licence moneys the registering officer shall deal with such stand in accordance with the provisions of sub-section (3) of section *nine*; provided that, one month before so dealing with such stand, the registering officer shall serve written notice on the registered holder or purchaser in default, and on the mortgagee of such stand of his intention so to do.

(3) The balance of the proceeds of such sale after deducting arrears of rent or stand licence moneys, the costs of sale incurred by the registering officer together with any unpaid purchase money and interest thereon (which term shall be deemed to include the amount for which freehold is obtainable under any agreement filed under this Act or under any statement mentioned in section *nineteen*) shall be paid to the registered holder who has made default, unless there exists a bond upon the stand or lot in which case so much of the balance shall be paid to the bondholder or bondholders as appears to be due to him or them.

18. (1) Whenever the township owner has not availed himself of the provisions of sub-section (1) of the last preceding section, in the case of a private leasehold township or semi-Government township the owner whereof offers freehold to the registered holder upon terms approved by the Governor, then, if the stand licence moneys, monthly rentals or instalments of purchase price together with interest (if any) thereon in respect of a stand in any such township, are in arrear for six months, or for such longer period as is mentioned in sub-section (2) of the last preceding section the township owner may lodge with the registering officer a solemn declaration, in the form in the Fourth Schedule, stating that the stand licence moneys, monthly rentals, or instalments (as the case may be), are in arrear for the said period.

Procedure where licence moneys are in arrear.

(2) The provisions of sub-sections (2) and (3) of the last preceding section shall *mutatis mutandis* apply as soon as the township owner has lodged such declaration.

19. Any township owner who desires to avail himself of the provisions of either of the last two sections shall lodge with the registering officer a statement of the terms upon which registered holders may obtain freehold. If such terms are approved by the Governor, a notice shall be published by the

Conditions of obtaining benefit of section *seventeen* or *eighteen*.

registering officer in the *Gazette* and in a newspaper circulating in the locality, and thereafter any registered holder in the said township may obtain freehold upon the terms contained in the said statement, without entering into any other or further agreement; provided that nothing in this section contained shall affect any agreement entered into before the commencement of this Act between the township owner and the registered holder, or be construed as preventing the township owner and registered holder from entering into any agreement for the purchase or sale of freehold upon such other terms as the parties to the agreement may see fit.

*General Conversion Provisions.*

Prohibition of  
sale of stands  
except in  
freehold

20. (1) After the commencement of this Act no stands in semi-Government townships or lots in private freehold or leasehold townships shall be sold by a township owner except in freehold; provided that nothing in this section contained shall be deemed to prevent the registered holder, registered owner or purchaser (as the case may be) of a stand or lot in any such township who is not the township owner from leasing or transferring the lease of any stand or lot for such period as such holder, owner, or purchaser may see fit; provided further that this section shall not apply in respect of stands or lots in a semi-Government township or private leasehold township if the township owner was not on the fifteenth day of July 1908 the owner of the unencumbered freehold and has not entered into such agreements as are mentioned in section *sixteen* or other like agreements by which the township owner has at the said date been enabled to sell such stands in freehold.

(2) In semi-Government townships no agreement heretofore made between the township owner and the Government shall be deemed to prevent the township owner from selling in freehold stands therein if the leasehold interest therein has not been disposed of.

(3) Nothing in this section contained shall be construed as prohibiting the registration of the lease of any stand or lot a contract for which lease either written or verbal has been entered into before the commencement of this Act and particulars of which are lodged with the registering officer within one month after such commencement, *\* or within such further period as the registering officer may allow, not being a longer period than one year after the thirtieth day of June, 1909.*

Receipts  
where  
payments  
made to  
Mining  
Commissioner.

21. In the case of townships where payments of the sums provided by this Act have been made to a Mining Commissioner who is not a registering officer for the district receipts in duplicate shall be issued by such Mining Commissioner, and it shall be the duty of the registered holder to lodge one copy thereof with the registering officer.

\* Words in italics added by Act No. 30 of 1909, sec. 3.

## PART II.

## SPECIAL PROVISIONS APPLICABLE TO CERTAIN AREAS IN THE MINING DISTRICT OF JOHANNESBURG.

22. (1) Part II of this Chapter shall be applicable to the several portions of the mining district of Johannesburg therein specially described and to those portions exclusively.

Application of Part II of this Chapter and division of such Part.

(2) Such part is arranged in the following divisions according to the provisions made applicable to each such portion of the said mining districts, that is to say:—

- (A) Surveys of Government townships on the Government farm Randjeslaagte and the Government portions of the farm Braamfontein;
- (B) Township of Burgersdorp;
- (C) Township of Vrededorp;
- (D) Prospect Township;
- (E) Township of Newtown.

(A) *Surveys.*

23. (1) As soon as may be after the commencement of this Act the Surveyor-General shall cause surveys to be made of every Government township on the Government farm Randjeslaagte No. 138 and the Government portions of the farm Braamfontein No. 127 District Witwatersrand in respect of which no approved or confirmed general plan exists, and shall cause a general plan of every such township to be lodged with the registering officer.

Framing and lodging of general plans in respect of townships on Randjeslaagte and Government portions of Braamfontein.

(2) For such purpose the Surveyor-General shall give not less than fourteen days' notice in the *Gazette* and in a newspaper circulating in the mining district, of the date on which and hour at which the survey of any such township will be commenced, the section of any part of such township where the survey will be commenced, and the name of the person (being a duly admitted land surveyor) who will commence the survey.

(3) The Surveyor-General shall further cause not less than eight days' written notice to be given to every registered holder of a stand or lot in such township of the date and hour at which the said land surveyor will attend to point out the boundaries of his stand or lot and such land surveyor shall do all things necessary and possible to point out to each such holder the boundaries of his stand or lot.

(4) For the purposes of a survey under this section and the succeeding sections, such land surveyor may at all reasonable hours enter upon any land or buildings and do all things necessary therein or thereon for the purpose of carrying out his duties under the said sections.

24. (1) In the case of unoccupied blocks of stands or lots the surveyor shall fix and mark the boundaries thereof as nearly as may be in accordance with the existing plan of the township; and in the event of the survey disclosing a surplus

Manner of fixing and marking boundaries of stands and lots.

or deficiency of land as compared with the existing plan, such surplus or deficiency (as the case may be) shall be allocated in equal proportions to all the stands or lots.

(2) In the case of stands or lots on which exist at the commencement of this Act substantial buildings, the walls whereof, at such commencement were by repute the boundaries of the stands or lots, the surveyor shall fix the boundaries between the stands or lots accordingly; provided that if any such building encroaches more than six inches upon an adjoining stand or lot, compensation shall be paid to the registered holder thereof, the amount of such compensation, if not mutually agreed upon by the registered holders concerned, being determined by the Arbitration Board constituted under section *twenty-eight*; provided further that if any such building encroaches upon a public street, square, open space, or side-walk, the Council of the Municipality of Johannesburg may make application to the said Board for an order for the removal of the encroachment or portion thereof and the said Board shall make such order thereon as to it may seem just, except that it shall in no case order compensation to be paid to the Council in respect of any such encroachment.

25. (1) After the provisions of section *twenty-three* have been complied with, the surveyor shall, where possible, demarcate all boundaries of a stand or lot fixed by him as aforesaid and thereupon such boundaries shall be true boundaries, for the purposes of this Chapter, of such stand or lot, unless the registered holder thereof after its boundaries have been pointed out as aforesaid shall within twenty-one days lodge with the surveyor and serve upon the registered holder of any adjoining stand or lot a notice of appeal to the said Arbitration Board.

(2) Upon receipt of such notice the surveyor shall forthwith transmit the same to the said Arbitration Board.

26. (1) The registered holders of two or more adjoining stands or lots may agree in writing as to the situation of the boundaries thereof.

(2) Any such agreement may be lodged at the office of the Surveyor-General who, if satisfied that the agreement has been executed by or on behalf of the parties between whom it purports to have been made, and that the agreement purports to determine the boundaries of adjoining stands so as to correspond as nearly as possible to the boundaries demarcated by the surveyor under the last preceding section, shall file the same in his office and thereupon the boundaries so agreed upon shall be deemed to be the true boundaries for the purposes of this Chapter.

(3) The Surveyor-General shall transmit a copy of any such agreement which has under sub-section (2) been lodged at his office to the surveyor charged with the fixing of the boundaries of such stands or lots.

27. (1) As soon as possible after any appeal disputing the accuracy of the boundaries of any stand or lot demarcated as aforesaid has been determined by the said Board, or if

Boundaries fixed by surveyor to be deemed true boundaries unless appeal lodged to Arbitration Board.

Agreement between holders of adjoining stands or lots as to boundaries thereof.

Diagram to be lodged and to be indisputable when



there be no such appeal, as soon as possible after the expiry of the period prescribed by section *twenty-five*, the surveyor shall lodge at the Surveyor-General's office a general plan of the township showing the boundaries of each stand or lot therein.

published by the Surveyor-General for confirmation.

(2) After confirmation of such general plan by the Surveyor-General the same shall be indisputable and the boundaries shown thereon shall be the true boundaries of any stand or lot represented on the general plan.

28. (1) The Governor may, from time to time, whenever it may be necessary for the purposes of this Act, appoint an Arbitration Board consisting of three persons one of whom shall be an advocate of the Supreme Court and chairman of the Board and at least one of the remaining members shall be a duly admitted land surveyor.

Constitution powers and jurisdiction of Arbitration Board.

(2) The said Board shall have jurisdiction to hear and determine the amount of compensation payable under section *twenty-four* in respect of any encroachment of substantial buildings upon an adjoining stand or lot.

(3) The said Board shall further have jurisdiction to hear and determine any appeal of which notice has been given under section *twenty-five*.

(4) The said Board shall for the purpose of exercising its jurisdiction have all the powers, jurisdiction, and privileges mentioned in the Commissions Powers Ordinance 1902 as if it were such Commission as is mentioned in section *five* thereof.

(5) Every decision of the said Board shall be final and conclusive of the matter in dispute; provided that any award of compensation made by it may, upon motion by any party after due notice to the other parties, be made a rule of Court and enforced in the same manner as a judgment or order to the same effect of the Supreme Court is enforceable.

(6) A copy of every decision of the said Board as to boundaries shall be lodged with the Surveyor-General as soon as the same is made.

29. (1) Any person having an interest in any matter which may be heard by the Board may appear before it in person or by any agent nominated by him in writing.

Procedure before the Board.

(2) No such claim for compensation as is mentioned in section *twenty-four* and no such appeal as is mentioned in section *twenty-five* shall be entertained by the Board unless there be deposited simultaneously with the claim or notice of appeal the sum of twenty-five pounds.

(3) If the claim or appeal be sustained, the deposit shall be returned to the appellant.

(4) If the claim or appeal be dismissed, the Board may order that so much of the deposit be paid to any successful respondent as will reimburse him for any reasonable expenditure to which he may have been put, in appearing before it on the claim or appeal, and the remainder (if any) refunded to the claimant or appellant; provided that, in the event of

the claim or appeal being held by the Board to be frivolous, it may order any portion of the deposit which remains, after reimbursing the respondent as aforesaid, to be forfeited to the Treasury. Any such forfeited deposit shall be applied by the Colonial Treasurer in manner provided by section *fourteen*.

Surveyed area of stand or lot to be the area on which title is granted.

30. Upon survey under the provisions of this part of this Chapter, the area disclosed by such survey of any stand or lot and marked or indicated as the area of such stand or lot on such confirmed general plan aforesaid shall be the area in respect of which a certificate of freehold title may be granted notwithstanding that such area does not correspond with the area in respect of which the registered holder held his *voorkeurrecht* or leasehold title to such stand or lot.

(B) *Township of Burgersdorp.*

Terms of freehold title in township of Burgersdorp.

31. A registered holder of stands in the township of Burgersdorp held under the same conditions as those upon which stands in the township of Vrededorp were held (being the conditions contained in Executive Council Resolutions, article No. *seven hundred and nine*, dated the thirteenth day of December 1893; article *one hundred and thirty-seven* dated the twentieth day of March 1894 and article *one hundred and eighty* dated the third day of March 1896) shall in addition to the amount payable under section *nine* pay for freehold title an amount determined as follows:—The registered holder of a stand of a value not exceeding two hundred pounds shall pay ten pounds. The registered holder of a stand of a value not exceeding three hundred pounds shall pay fifteen pounds and the registered holder of a stand of a value exceeding three hundred pounds shall pay twenty pounds. *If any such instalment be not paid upon the date when the same is due, the provisions of sub-section (3) of section nine shall apply as if the instalment were stand licence money.\**

Such sums shall be payable in monthly instalments of not less than ten shillings each, payable in advance on the first day of each month after the commencement of this Act, and each instalment shall for all purposes be deemed to be a portion of the stand licence moneys payable in respect of the stand within the meaning of Law No. 15 of 1898.

Valuation of certain stands in Burgersdorp.

† 32. The registering officer shall cause a valuation to be made by a sworn appraiser of stands numbered 80 and 87 and stands numbered from 1137 to 1150 inclusive in the said township of Burgersdorp and shall give written notice to the occupant of each stand who has been in occupation not less than five years, of the sum at which the stand occupied by him is valued. Such occupant shall thereupon have the right at any time within three months thereafter to enter into an agreement to purchase the same. The purchase price

\* Words in italics added by Act No. 30 of 1909, sec. 4.

† See, however, Act No. 30 of 1909, sec. 5.

shall be payable in not more than one hundred and twenty equal monthly instalments without interest. The said agreement shall be in the form set forth in the Fifth Schedule hereto.

‡ 33. If more than one person is in occupation of any stand or part thereof, the registering officer shall call for tenders from such occupants and the person making the highest tender (provided it be not less than the said valuation) shall, subject to the completion of the agreement, be deemed the purchaser. Upon the failure of any purchaser to pay the instalment of the purchase price when due the provisions of sub-section (3) of section *nine* shall apply in the same manner as if such instalments were stand licence moneys.

Provision where more than one person in occupation of a stand.

The owner who has not purchased his stand under this section shall be entitled to remove any buildings thereon at any time within six months from the commencement of this Act, but shall not be entitled to any compensation for loss or damage on any account whatsoever. If such buildings are not removed within the said six months the registering officer may cause the same to be removed without any form of legal process at the cost of such owner.

34. The reservation of certain thirty-nine stands numbered 1068*a*, 1069*a*, 1070*a*, 1071 to 1086 inclusive, and 1151 to 1170 inclusive, and of Madras Street in the said township in favour of the Trustees of the Rand Aid Association by Deed of Reserve No. 495 (which purported to have been granted by the Lieutenant-Governor under the Crown Land Disposal Ordinance 1903 and Executive Council Resolutions No. 1321 dated the 23rd day of November 1904, and No. 293 dated the 22nd day of February, 1905, upon condition that the land reserved be used for charitable purposes) shall be and is hereby deemed to have been at all times a lawful reservation.

Confirmation of reservation of stands for Rand Aid Association.

(C) *Township of Vrededorp.*

35. (1) Section *five* of the Vrededorp Stands Act 1907 shall be and is hereby amended by the substitution of the words "fifteen pounds" for the words "forty pounds" occurring in sub-section (1) thereof.

Provisions for conversion of title in the Township of Vrededorp.

(2) The Municipal Council of Johannesburg shall lodge with the Registrar of Deeds an approved or confirmed diagram of the Township of Vrededorp (as in the Vrededorp Stands Act 1907 described), and the title deeds thereto in manner provided by section *fifty* of this Act.

(3) As soon as the provisions of sub-section (2) have been complied with, the registering officer shall issue a certificate of freehold title to a Vrededorp stand to any registered holder (as defined in the Vrededorp Stands Act 1907) who produces to him a receipt (in the form shown in the Sixth Schedule hereto) for payment of moneys due to the said Council under the said Act as by this Act amended, and who pays for such certificate the fee of ten shillings mentioned in sub-section (2) of section *sixty-four* of this Act.

‡ See, however, Act No. 30 of 1909, sec. 5.

(4) The certificate of freehold title issued by the registering officer under this section shall be subject to the conditions prescribed by section *four* of the Vrededorp Stands Act 1907, and such conditions shall be incorporated in the certificate.

(5) Whenever in the Vrededorp Stands Act 1907, the words "Registrar of Deeds" occur, the term "registering officer" shall for the purposes of this Act be substituted therefor.

(D) *Prospect Township.*

Power to  
proclaim  
certain areas  
known as  
Prospect  
Township.

36. Notwithstanding anything in any law in force at the commencement of this Act, it shall be lawful for the Governor to cause such areas within that portion of the proclaimed farm Doornfontein No. 140, Witwatersrand District, more particularly described in the Seventh Schedule as may be necessary to give effect to sections *thirty-six* to *forty-two* inclusive to be surveyed into lots, streets, and one square not exceeding one morgen in extent, and proclaimed as a township under the name of "Prospect Township" being approximately the ground which was in the year 1888 surveyed as a township under the said name of Prospect Township; provided that the holders of the mineral rights thereunder shall not in any way be affected in the free and undisturbed right of mining such as hitherto enjoyed by them according to law subject to the Mining Regulations from time to time in force.

Terms  
upon which  
bona fide  
purchasers of  
stands in such  
areas may  
obtain  
certificate of  
registered  
title.

37. (1) Any person who bona fide purchased one or more stands within the said areas as stands in a township shall, upon payment of all arrear and current municipal rates, taxes, assessments, and sanitary fees and upon payment to the freehold owner of the ground of the sum of twelve pounds ten shillings for and in respect of each lot in extent five thousand square feet or less (and for any additional area at the same rate) be entitled to receive from the registering officer a certificate of title thereto and if possible to an adjoining lot also so as to make up a total area of one hundred by one hundred feet. Such certificate shall be subject to the provisions contained in the last preceding section.

Provided that if any rates, taxes, assessments or sanitary fees have been paid by any person in respect of any buildings or ground which is situated upon or within the said area and which is occupied or held by any person claiming under the provisions of this section, the person making such claim shall before obtaining freehold title repay the amount of such rates, taxes, assessments and sanitary fees to the person who has paid the same; provided further that no person who, prior to the commencement of this Act, has purchased the lease of a stand within the said areas shall be liable for arrears of stand licence moneys or rent in respect of such lease.

(2) For the purposes of this section the word "person" shall include the heirs, executors, administrators, or assigns of the bona fide purchaser described in sub-section (1) notwithstanding that any deed of assignment or transfer under which

the applicant claims is an underhand deed or has not been executed before or registered in the office of the Mining Commissioner or Registrar of Mining Rights.

38. (1) As soon as may be after the commencement of this Act, the registering officer shall cause a notice to be published four times in the *Gazette* and four times at intervals of one week in papers published respectively in Johannesburg, Durban, Capetown, and London calling upon all persons who claim any interest under the last preceding section to lodge their claims, duly supported by proof thereof, with the registering officer within six months from the date of first publication; provided that no claim made or lodged after the expiry of six months from the date of the first publication in the *Gazette* of the notice required by this section shall be deemed to be valid.

Mode of establishing claims to rights in Prospect Township.

(2) At the expiry of the said term of six months the registering officer shall cause a list of all applicants, with the numbers of the stands claimed by each, to be published four times in the *Gazette* and as often at intervals of one week in a paper published in Johannesburg, calling upon all persons who desire to object to any claim to do so within six weeks of the first publication of such list and to lodge a notice of the objections with the grounds thereof with the registering officer and to serve a copy on the claimant. In the said notice the registering officer shall appoint a time and place at which such claims and objections shall be considered. At the time and place appointed in the said notice the registering officer shall hear and determine the said claims and all objections thereto and may adjourn the hearing from time to time. The decision of the registering officer shall be subject to appeal to the Witwatersrand High Court and the decision of such court shall be final; provided that notice of such appeal be given within fourteen days of such decision, and the appeal be prosecuted as soon as possible.

39. After the said claims have been finally determined as aforesaid the Governor shall cause the survey provided for in section *twenty-three* to be carried out under the direction of the registering officer which survey shall, subject to the conditions herein set forth, include stands sufficient in number to provide for the grant of two lots of fifty by one hundred feet for each stand held or occupied by any person. The said survey shall follow the original survey and shall not without the consent of the freehold owner exceed the limit of such original survey as far as the same can be ascertained, but the said original survey may be varied so as to effect as far as possible the following objects:—

Surveys.

- (a) The placing of all lots awarded under this Act within a compact area;
- (b) the placing of existing dwelling-houses or other permanent buildings entirely within the boundaries of lots awarded to the owners of such houses and buildings;
- (c) the award of lots where their existence will cause the least interference with mining operations upon the said

area or upon the mine of which the said area forms a part, and for the purpose of determining that question it shall be the duty of the registering officer to consult with the freehold owner;

provided that the registering officer may award to the persons entitled to lots not built upon or occupied or lots occupied by roads, railways, or by other persons other lots in lieu thereof, in order to effect the objects in this section set forth.

Form which survey may take.

40. The survey hereby authorised may, in order to secure regularity in the laying out of the said township, provide for a number of lots in excess of the actual number required for the purposes of the preceding section as appearing by the number of claimants therefor at the time of survey; provided that until the award, no lot shall be deemed to be an integral part of such township, which shall consist only of such lots as are awarded under this and the last preceding section; provided further that, after all claims filed within the prescribed time have been decided, the Governor may direct that not more than ten of such lots in excess (if any), shall be devoted to Government or municipal purposes and the remainder (if any) may be sold in freehold (but not otherwise), by the freehold owner of the ground, but no municipal rates, taxes, sanitary fees, special assessment or other fees of any nature whatsoever shall be claimable in respect of any such excess lots or areas situate within the proposed township so long as such lots or areas remain unsold or unoccupied.

How far trading permitted on lots in Prospect Township.

41. Licences to trade may be issued for the said lots under the laws or municipal regulations in force save that no licence to carry on the business of a jeweller or worker or dealer in precious metals, scrap metals or precious stones, nor a licence under the laws for the time being regulating the sale of intoxicating liquors, shall be granted.

Standholder under Law No. 15 of 1898 to be deemed to be registered holder.

42. The lessee at the commencement of this Act of any stand held under the provisions of article *ninety-two* of Law No. 15 of 1898, within the said area shall be deemed to be a registered holder under this Act in respect of such stand, and shall be entitled to receive a freehold title to such stand upon payment of all arrears of rent, together with the sum of twelve pounds ten shillings.

#### (E) *Township of Newtown.*

Provisions applicable to the township of Newtown.

43. (1) Section *twenty-six* of Ordinance No. 19 of 1903 and section *six* of Ordinance No. II (Private) of 1905 shall be and are hereby repealed, and notwithstanding anything to the contrary in any law contained, the following provisions shall be substituted therefor and shall be applicable to that portion of the area described in Ordinance No. 19 of 1903 known as Newtown:—

(a) Any land or lots in the said area may be used by the Municipal Council of Johannesburg for such municipal purposes and for such periods as the Council may from time to time determine;

(b) Any land or lots in the said area may be leased by the said Council for a term not exceeding five years without the option of renewal;

(c) Any land or lots in the said area may, with the consent of the Governor, be sold by the said Council, on such conditions as the Governor may approve, but the following provision shall be included in such conditions, namely:—

(i) The land or lots shall be sold by public auction to the highest bidder for not less than an upset price to be fixed by the Council, with the approval of the Governor, such upset price to include the following special charges, namely: the cost of improvements made by the Council, survey and registration charges;

(ii) The Council shall publish in a newspaper circulating within the Municipality of Johannesburg for at least once a week for three consecutive weeks prior to the date of sale a notice containing full particulars of the intended sale;

(iii) The moneys realized by such sale shall after deducting the amount of the special charges above mentioned be applied by the Council in the manner prescribed in section *thirty-two* of the Johannesburg Borrowing Powers Ordinance 1903;

provided that nothing in this section contained shall apply to streets, squares and open spaces in the said area.

(2) In the case of lands or lots in the said area which, prior to the commencement of this Act, have been leased by the Council under the provisions of section *twenty-six* of Ordinance No. 19 of 1903 or of section *six* of Ordinance No. II (Private) of 1905, the Council may grant the lessees thereof a freehold title on such terms and conditions as may be agreed upon between the Council and such lessees and as the Governor may approve.

(3) For the purpose of sub-section (2) of this section the Council shall be deemed to be a "township owner" and each of the said lessees to be a "registered holder" and the provisions of this Act with regard to the issue of a certificate of freehold title shall *mutatis mutandis* apply.

### PART III.

#### SPECIAL PROVISIONS APPLICABLE TO CERTAIN AREAS IN THE MINING DISTRICT OF KRUGERSDORP.

44. The provisions of Second Volksraad Resolution No. 940 of 1896 and of the Brickmaking Regulations promulgated by Resolution of the First Volksraad No. 188,\* dated the seventeenth day of May, 1892, shall be and are from the

Inapplicability of certain Volksraad Resolutions.

\* The regulations under F.V.R.R. 1892, art. 188, were superseded by the regulations of 1894; and F.V.R.R. 1892, art. 188, has itself been repealed by Trans. Proc. No. 34 of 1901.

commencement of this Act no longer applicable, except as herein provided to that portion of the farm Paardeplaats No. 73, District Witwatersrand (Mining District of Krugersdorp), known as "Burghershooop" the "Coolie Location" and the "New Brickfields" as shown by a plan framed by F. H. Rissik, Esquire, Government land surveyor, and approved by the Surveyor-General under No. 2980-97 on the twentieth day of August, 1897.

Certain areas to be deemed a Government Township.

45. From and after the commencement of this Act the following areas of land shown on the said diagram, that is to say :—

- (1) the area known as Burghershooop ;
- (2) the area known as the "Old Coolie Location" and
- (3) two certain portions of the area known as the "New Brickfields" which lie north of Wagon Street comprising
  - (a) the area laid out into brickmakers' residential stands numbered 1 to 160; and
  - (b) the area laid out into brickmaking sites and *bewaarplaatsen*, numbered 161 to 172 inclusive, together with streets adjoining the same ;

shall be deemed to be a Government Township and shall be known as the "Township of Burghershooop." The holders of licences for stands, brickmaking sites, and *bewaarplaatsen* in the areas described in sub-sections (1) and (3)† shall be deemed to be registered holders and the brickmaking sites and *bewaarplaatsen* numbered 161 to 172 shall for the purposes of this Act be deemed to be stands.

Where any person, registered at the commencement of this Act in the office of the Mining Commissioner as the holder of any stand, brickmaking site or *bewaarplaats* in such areas has, at any time prior thereto, bona fide sold, transferred or assigned the said stand, brickmaking site or *bewaarplaats*, or his interest therein to any other person, the Mining Commissioner may, upon the application of such other person and after notice in the *Gazette* and in a newspaper circulating in the Mining District of his intention so to do, register such stand, brickmaking site or *bewaarplaats* in the name of such other person, who shall thereupon be deemed to be the holder of a licence within the meaning of this section for such stand, brickmaking site or *bewaarplaats*. If any objection to such application be lodged with the Mining Commissioner within fourteen days after the first publication of such notice, the Mining Commissioner shall appoint a time and place for the hearing of such application and such objection, and after hearing such application and objection the Mining Commissioner shall give his decision thereon. Such decision shall be subject to appeal to the Witwatersrand High Court provided that notice of such appeal be given within fourteen days of such decision and the appeal be prosecuted as soon as possible.

† Words in italics substituted by Act No. 30 of 1909, sec. 6 (1) ; see also sec. 6 (2).



46. On the commencement of this Act that portion of said farm Paardeplaats No. 73, enclosed within the boundaries set out in the Eighth Schedule shall be transferred in freehold to the Council of the Municipality of Krugersdorp under the provisions of the Crown Land Disposal Ordinance 1903 but subject to the conditions set forth in section *forty-seven* of this Act.

Vesting of freehold title of Paardeplaats in Municipality of Krugersdorp.

\*47. The said Council shall administer the said area as a brickfields subject to *such regulations*† as the Governor may prescribe and subject further to the following conditions:—

Administration of area by Council as brickfields.

(1) The persons holding licences for brickmaking sites and *bewaarplaatsen* within the said area shall be entitled upon payment of the sum of five shillings per month to hold the same for the purposes of making and storing bricks thereon for a period of not less than five years.

(2) Any person who, being the holder of a licence for a brickmaking site or *bewaarplaats* prior to the first day of July 1907, has erected a dwelling-house thereon, shall be entitled, upon payment of the sum of five shillings per month, to reside in the said dwelling-house for a period of ten years and to use for the said period any ground fenced in provided such dwelling or fencing does not encroach upon the boundaries of an adjoining brickmaking site or *bewaarplaats* or other land adjoining.

(3) The said Council may with the approval of the Governor expropriate the rights of any person holding brickmaking sites or *bewaarplaatsen* on the said area.

‡(4) *The persons holding licences for brickmaking sites and bewaarplaatsen shall pay to the Mining Commissioner within a period which the Governor shall, by the said regulations prescribe, all arrears of moneys due up to the date of the taking effect of the regulations: in default of such payment within the time so prescribed, all the right and title to the said brickmaking sites and bewaarplaatsen shall lapse and they shall be dealt with in accordance with the said regulations. The periods of five and ten years respectively mentioned in conditions (1) and (2) shall be reckoned from the date of the taking effect of the said regulations.*

48. (1) That portion of the farm Paardekraal No. 73, District Witwatersrand, as is more particularly described in the Ninth Schedule shall be transferred in freehold to the said Council under the provisions of the Crown Land Disposal Ordinance 1903, and subject to the following conditions:—

Certain portion of farm Paardekraal to be deemed a private leasehold township.

(a) For the purpose of this Act, but subject to the provisions of this section, the said portion shall be deemed to be a “private leasehold township,” the Council of the Municipality of Krugersdorp shall be deemed to

\*For regulations brickfields on Paardeplaats No. 73 by Krugersdorp Municipality see Govt. Notice No. 502 of 1910 (*Gazette*, 13/5/10).

† Words in italics substituted by Act No. 30 of 1909, sec. 7 (1) (a).

‡ Sub-sec. (4) added by Act No. 30 of 1909, sec. 7 (1) (b).

be the "township owner" thereof, and the holders of brickmakers' stands within the said area to be "registered holders."

(b) It shall be the duty of the said Council within three months after the commencement of this Act to cause the said area to be surveyed into lots as nearly as may be as the same is now occupied, and reduced to diagram which shall be duly confirmed by the Surveyor-General and a copy thereof lodged with the registering officer.

(c) The holders of lots within the said area shall be entitled to a certificate of freehold title under this Act upon payment to the said Council of an amount determined as follows:—

- (i) The registered holder of a stand of a value not exceeding two hundred pounds shall pay ten pounds;
- (ii) the registered holder of a stand of a value not exceeding three hundred pounds shall pay fifteen pounds;
- (iii) The registered holder of a stand of a value exceeding three hundred pounds shall pay twenty pounds.

(2) Nothing in this section contained shall be deemed to exclude any lots in the said portion in respect of which a certificate of freehold title is not issuable under this section, from the provisions of the Municipal Corporations Ordinance 1903 or the Town Lands Ordinance 1904 or any amendment of such laws.

#### PART IV.

#### SPECIAL PROVISIONS RELATING TO THE STAND TOWNSHIP OF HEIDELBERG.

Issue of freehold title in respect of stand township of Heidelberg.

49. Stands numbered 65, 66, 121 to 124 inclusive, 126 to 128 inclusive, 177, 179, 181, 182, 327, 328, 379, 518 to 520 inclusive, 622 to 624 inclusive, and 678 to 680 inclusive in the stand township of Heidelberg shall, for the purposes of this Act, be deemed to be stands in a Government township and shall be subject to the following conditions, namely:—

(1) The sum which shall be payable for the freehold of each of the said stands shall be the amount of the stand licences in arrear on the thirtieth day of April, 1906, together with a sum calculated at the rate of three shillings per annum on each stand from the first day of May, 1906, until the date of issue of a deed of grant in freehold under this Act.

(2) The payment of such amount shall be made in one sum and shall be deemed to be payment under section *nine* and of all arrears due in respect of a stand.

(3) Unless payment of such amount be made within twelve months from the commencement of this Act, the Mining Commissioner shall cause each stand, in respect of which such payment is in default, to be dealt with under the provisions of sub-section (3) of section *nine*.

\* CHAPTER III:

REGISTRATION.

PART I.

Mode of Registration.

50. (1) It shall be the duty of the owner of every township in existence at the commencement of this Act (including a township owner as by this Act defined), to lodge for noting, as in this section mentioned, with the Registrar of Deeds within *twelve months*† after such commencement, a copy of an approved or confirmed diagram of the land comprised in the township, together with the title deed or lease under which he holds such land, unless such diagram and deed have already been lodged and noted.

Duties of township owners in respect of lodging of diagrams and title deeds.

(2) The freehold owner if he is not the township owner, shall within the same period lodge the freehold title deed with the Registrar of Deeds. If such title deed or lease be for any reason in the possession or custody of any person other than the freehold owner, the person so in possession shall, within the period aforesaid, lodge the title deed with the Registrar of Deeds, and, where the land is mortgaged or otherwise encumbered, the mortgage bond or other instrument of encumbrance.

(3) Where the whole of the land held under such title deed is comprised in the township, the Registrar of Deeds shall thereupon make on each title deed and on his office copies thereof an endorsement in as nearly as possible the following terms:—

“The land herein described has been laid out as a township under the name of.....according to diagram S.G. No.....framed by Surveyor ..... in ..... and approved by the Surveyor-General on the.....day confirmed of.....190....and is subject to the provisions of the Townships Amendment Act 1908.”

(4) Where only a portion of the land held under such title deed is comprised in the township, the Registrar of Deeds shall issue to the owner of the said land, a certificate (hereinafter styled a certificate of township title) under his hand and seal, of the said portion so comprised in the township, which certificate shall be as nearly as possible in the form set out in the Tenth Schedule and shall have attached thereto a diagram of the said portion. Upon issuing such certificate, the Registrar of Deeds shall write off the area of the portion therein described on the title deed aforesaid and shall cause the necessary deduction to be laid down on the

\* For definition of semi-Government township, see Act No. 13 of 1909, sec. 2.

† Words in italics substituted by Act No. 30 of 1909, sec. 8.

diagram of the land held under the said title deed. Thereupon such certificate of township title shall for all purposes be and serve as the sole title deed of the portion of land therein described, provided that, upon issuing such certificate the registrar shall in cases where the land comprised therein is subject to any bond or other encumbrance endorse the fact of such issue on such bond or other instrument of encumbrance, make an entry thereof in the debt or other register, and endorse on such certificate that, in terms of this subsection, it is mortgaged or encumbered by such bond or other instrument; whereupon the land held under such certificate shall be deemed to be hypothecated or encumbered as fully and effectually as if it had been originally hypothecated or encumbered by such bond.

Survey of  
private  
leasehold  
townships.

51. (1) If at the commencement of this Act the township owner of a semi-Government township or of a private leasehold township has not lodged an approved or confirmed general plan of such township in terms of section *twenty-nine* subsection (3) of the Transfer Duty Proclamation 1902 as amended by section *four* sub-section (d) of the Registration of Mining Rights Proclamation 1902, such township owner shall immediately cause a survey to be made of such township. For the purpose of such survey and of determining the boundaries of any stands or lots in such township the provisions of sections *twenty-three* to *thirty* inclusive shall apply in like manner as if such township were a Government township on the farms Randjeslaagte No. 138 or Braamfontein No. 127, provided that the Arbitration Board shall require any persons appearing before it to bear, in such proportion between the two parties as the said board may award, such expenses of the Arbitration Board as are described in section *fourteen*.

(2) Should the township owner fail to comply with the provisions of sub-section (1) hereof, the Surveyor-General may cause such survey to be carried out at the cost of the township owner and such cost shall be recoverable from the township owner on an order of the Supreme Court, granted on the application of the Surveyor-General.

(3) In order to determine the boundaries of any stands or lots in the township of Vrededorp, the Municipal Council shall be deemed to be a "township owner" and the township of Vrededorp a "private leasehold township" for the purposes of this section.

Duties of  
owners of  
townships  
approved  
after com-  
mencement  
of Act.

52. (1) The owner of any township approved after the commencement of this Act shall, upon notification by the Surveyor-General of approval or confirmation of the general plan and diagrams as is by section *seven* of the principal law provided, lodge with the Registrar of Deeds the documents mentioned in sub-section (1) of section *fifty*. The Registrar of Deeds shall thereupon make the endorsement on the title deed or issue a certificate of township title as is provided by sub-section (3) or sub-section (4) as the case may be

of section *fifty*; provided that, in cases where the land upon which or upon a portion of which the township is situate is hypothecated under a mortgage bond, the registrar shall not make the endorsement under sub-section (3) nor issue the certificate of township title under sub-section (4) without the consent of the legal holder of such bond. Notwithstanding the fact that such bond remains uncanceled, the registrar may upon production of the bond together with the written consent of the legal holder thereof issue the certificate of township title in accordance with the provisions of sub-section (4) of section *fifty*. Thereafter the Registrar of Deeds shall notify the Minister that the provisions of this section have been complied with.

(2) Notwithstanding anything in section *seven* of the principal law contained, the Minister shall not cause the township to be declared an approved township until the Registrar of Deeds has notified him that the provisions of this section have been complied with.

\* 53. (1) At any time between the passing and the commencement of this Act the Governor shall establish at Johannesburg an office to be styled "The Rand Townships Registration Office" and appoint an officer to be in charge of such office and carry out the registration described in sub-section (2) of this section. Such officer shall be styled "the Rand Townships Registrar".

Where registration of title to be effected.

(2) After the commencement of this Act the registration of all documents of whatsoever nature affecting the freehold title to the land comprised within any township, or any stand or lot therein situate, in the mining districts of Johannesburg, Boksburg, or Krugersdorp may be effected either in the office of the Registrar of Deeds or in the office of the Rand Townships Registrar.

(3) If any such township or stand or lot therein be situate elsewhere in this Colony such registration shall be effected in the office of the Registrar of Deeds.

(4) Until the diagram and title deeds have been lodged and noted as by section *fifty* provided, no certificate of grant of freehold title shall be issued or registered.

54. (1) As soon as may be after the commencement of this Act, the Mining Commissioners of Boksburg and of Krugersdorp shall transmit to the Rand Townships Registrar, and every Mining Commissioner of other mining districts (except the Mining Commissioner of the Mining District of Johannesburg) shall transmit to the Registrar of Deeds, true copies of all property registers, deeds, bonds, plans, diagrams and other documents affecting the title to stands or lots in townships registered in their respective offices.

Transmission of documents by Registrar.

(2) The Rand Townships Registrar shall at the same time transmit to the Registrar of Deeds such information as may be necessary for the purpose of opening registers of such townships as have hitherto been registered in the office of the

\* The Rand Townships Registration Office was established on 1st January 1909; see Govt. Notice No. 4 of 1909 (*Gazette*, 2/1/09).

Registrar of Mining Rights but not in the Deeds Office, such information to include, where necessary, copies of the general plans of the said townships.

(3) The Rand Townships Registrar shall supply the Registrar of Deeds with duplicates of all certificates of freehold title issued by him under the provisions of this Act, and of all deeds of grant registered by him.

(4) The Registrar of Deeds shall supply the Rand Townships Registrar with copies of the registers of all townships situated in the Mining Districts of Johannesburg, Boksburg, or Krugersdorp registered in his office but which have not hitherto been registered in the office of the Registrar of Mining Rights, and with copies of the general plans thereof and of all current title deeds of lots in all townships in the said mining districts.

(5) Each Mining Commissioner and the Registrar of Deeds and the Rand Townships Registrar when transmitting the registers, deeds, and other documents or copies thereof or other information as above provided, shall also furnish true copies of all deeds, bonds, interdicts, attachments, Master's notices, or other processes or documents which affect or may be presumed to affect the properties to which the said registers, deeds, copies, or information relate.

Deeds Office procedure to apply save as otherwise provided.

55. (1) The registration and transfer of freehold title to all land including stands or lots in any township, and the registration of servitudes and other encumbrances on such land, shall be effected by the registering officer in accordance with the provisions of the Deeds Proclamation, 1902, or any amendment thereof and the regulations made thereunder, save in so far as this Act makes provision to the contrary; provided that in the event of the total or partial cancellation of a general plan of a township under section two of the Deeds Proclamation Amendment Ordinance 1903, the registration of all titles to land comprised within the township or portion so cancelled shall be effected in the office of the Registrar of Deeds in accordance with the Deeds Proclamation 1902 or any amendment thereof and the said regulations.

(2) The Rand Townships Registrar in so far as concerns the procedure and practice of his office in respect of the registration of the freehold title to land or of servitudes or encumbrances thereon shall follow the law regulations practice and procedure for the time being applicable to the Deeds Office.

(3) All deeds registered under the provisions of this Act in the Rand Townships Registration Office affecting land which has been converted into or was originally sold in freehold shall be in triplicate, and it shall be the duty of the Rand Townships Registrar to transmit on the next business day after the date of registration, the triplicate originals of all such deeds to the Registrar of Deeds, who shall record the same in the appropriate registers kept in his office and shall file them of record in his office.

(4) All deeds registered in the office of the Registrar of Deeds affecting the title to any stand or lot in any township situate in the Mining Districts of Johannesburg, Boksburg, or Krugersdorp, shall be in triplicate and it shall be the duty of the Registrar of Deeds to transmit on the next business day after the date of registration, the triplicate originals of all such deeds to the Rand Townships Registrar, who shall in like manner record the same in the appropriate registers kept in his office and shall file them of record in his office.

(5) Notwithstanding anything to the contrary contained in any law or regulation, such triplicate original deeds shall not require to be stamped nor shall any fees of office be required to be paid in respect of the registration or recording thereof, and they may be black carbon copies.

(6) Any deed of grant issued by the Crown under the provisions of the Crown Land Disposal Ordinance 1903 or any amendment thereof or under the provisions of this Act in respect of any stand or lot in any township situate in the Mining Districts of Johannesburg, Boksburg, or Krugersdorp, shall be framed in triplicate and shall first be registered in the Rand Townships Registration Office. It shall be the duty of the Rand Townships Registrar to transmit on the next business day after the date of registration the triplicates of all such deeds of grant to the Registrar of Deeds who shall record the same in the appropriate registers kept in his office and shall file them of record in his office.

(7) Where copies are required to take the place of original deeds affecting the freehold title of stands or lots situate in the Mining Districts of Johannesburg, Boksburg or Krugersdorp, which original deeds have been lost or destroyed, application for such copies may be made either to the Registrar of Deeds or to the Rand Townships Registrar. Before issuing any such copy the registrar to whom application has been made shall notify the other registrar of such application and shall not issue the copy until he shall have received from such other registrar a notification that there exists no objection to such issue. Upon issue of any such copy as aforesaid the registrar issuing the same shall forthwith notify the fact of such issue to the other registrar.

(8) When any interdict attachment, Master's notice or other process or document restraining or purporting to restrain or hinder any owner of freehold stands or lots in any township situate in the Mining Districts of Johannesburg, Boksburg or Krugersdorp is served upon or lodged with either the Registrar of Deeds or the Rand Townships Registrar, such registrar shall forthwith in the speediest possible manner notify the fact to the other registrar.

\* (9) Notwithstanding anything in this Act contained it shall be lawful for the Mining Commissioners of the different mining districts of this Colony to continue and carry on under the provisions of the existing laws and regulations relating

\* As amended by Act No. 30 of 1909, sec. 9.

thereto, the registration of any stands or lots in any Government, semi-Government or private leasehold townships situate within their respective districts.

(10) It shall be the duty of all persons who serve upon or file with the registering officer any interdicts, attachments, notices, or other processes or documents to lodge two copies thereof with such registering officer.

Validation of certain non-notarial documents executed in good faith which should under Proclamation (Transvaal) No. 8 of 1902 have been executed notarially.

55. (1) Where any lease or cession of lease of a stand or lot in any township whether freehold or leasehold, has before the commencement of this Act, been executed in good faith but has not been executed notarially as required by section *twenty-nine* of the Transfer Duty Proclamation 1902, it shall be competent for the registering officer upon satisfying himself that such lease or cession of lease was so executed, and that in other respects it complies in a reasonable manner with the law, to register such lease or cession thereof in the same manner as if the same had been notarially executed, and such lease and cession of lease shall upon such registration be deemed to be and to have been from the date of execution as valid and effectual for all purposes as if the said lease and cession of lease had been notarially executed.

(2) If any township owner has issued leases containing a proviso that the same may not be ceded, transferred or mortgaged without his consent and if such township owner neglects or refuses to provide means or machinery whereby his consent may be obtained in a reasonable manner or at a reasonable cost, or is absent from South Africa without leaving a representative duly authorised to give such consent, or if such township owner unreasonably withholds such consent, the Supreme Court, or, when the land leased is situate within the Mining Districts of Johannesburg, Boksburg or Krugersdorp, the Witwatersrand High Court, may upon application by the registering officer authorise him to effect registration without such consent and thereupon such consent shall be deemed to be duly given.

Alteration to general plans of townships.

57. *Repealed by Act No. 25, 1909, section one.*

Transfer of township or portion thereof.

58. *Repealed by Act No. 25, 1909, section one.*

Records of semi-Government or private leasehold townships to be filed with the registering officer by township owner who shall have access thereto.

59. (1) Whenever the township owner of a semi-Government or private leasehold township has sold in freehold all the stands or lots therein, he shall transmit to the registering officer for filing of record

(a) all leases and transfers or cessions of leases which have been issued or noted in his office;

(b) all cancellations of leases and documents relating thereto;

(c) all registers in which such leases, transfers, cessions or cancellations have been noted;

(d) all books of account showing periodical payments of licences or rentals.



(2) Such township owner may at any time require the registering officer to receive and file of record the books and documents mentioned in sub-section (1).

(3) The township owner shall at all reasonable times have the right of access, either personally or by his agent, to the books and records transmitted to or received by the registering officer under this section or to the documents furnished to the registering officer under section *seventeen*, may make copies thereof or extracts therefrom and may require the registering officer to cause such books, records or documents to be produced in any Court of Law.

(4) The registering officer shall make no charge whatever to the township owner for access given, copies or extracts taken or for the production of any books, records or documents under this section.

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## PART II.

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### *Issue of Certificates.*

60. (1) Upon conversion under this Act of title to a stand or lot to freehold the freehold title shall—

Form of  
freehold title.

(a) in the case where the freehold of the land before conversion is vested in the Crown, be in the form of a deed of grant under the Crown Land Disposal Ordinance 1903 or any amendment thereof;

(b) in the case where the freehold of the land before conversion is vested in any person other than the Crown, be in the form of a certificate as set out in the Eleventh Schedule.

(2) Such certificates shall be issued by, and such grant shall be issued through, the Rand Townships Registrar in respect of stands or lots in townships situate within the Mining Districts of Johannesburg, Boksburg, or Krugersdorp, and the Registrar of Deeds in respect of stands or lots in townships situate without the said mining districts.

† (3) *Such certificate or grant shall only be issued upon compliance by the registered holder with the requirements of this Act and upon surrender by him to the Rand Townships Registrar or Registrar of Deeds (as the case may be) of the transfer, lease, receipt or other document by virtue of which he holds the stand or lot, or if the original of that transfer, lease, receipt, or other document has been lost, then upon surrender of a duly certified copy thereof issued to take the place of such original; provided that if no such transfer, lease, receipt or other document can be produced or no duly certified copy thereof issued, a certificate by the Mining Commissioner*

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\* As amended by Act No. 30 of 1909, sec. 10 (a). For form of Crown grants of stands in Government townships, see Govt. Notice No. 640 of 1909 (*Gazette*, 11/6/09).

† This sub-section substituted by Act No. 30 of 1909, sec. 10 (b).

or registering officer that the person claiming the freehold title is the registered holder of the stand or lot shall be accepted in place of such transfer, lease, receipt, or other document of title.

(4) It shall be lawful to include in such certificate or grant and in any transfer of any stands or lots falling under the provisions of this Act any number of stands or lots situate in the same township and held by the same registered holder or registered owner.

‡ (5) Upon the registration of a certificate or grant of freehold title, the transfer, lease, receipt or other document of title by virtue by which the stand or lot is held shall lapse and the Rand Townships Registrar or Registrar of Deeds (as the case may be) shall immediately upon such registration being effected notify the Mining Commissioner of the district in which the stand or lot is situate, of such registration.

(6) Upon conversion into freehold of all the stands or lots in any Government, semi-Government or private leasehold township the register or registers of such township kept by the Mining Commissioner and all title deeds, bonds, plans, diagrams and other documents relating thereto shall as soon as possible be transmitted by the Mining Commissioner to the Registrar of Deeds or Rand Townships Registrar (as the case may be), who shall take charge of the same and shall file them in his office.

Certificates to be subject to existing bonds, servitudes, etc.

61. Every certificate or grant issued under the last preceding section shall be issued subject to—

(a) all bonds servitudes or attachments, interdicts and other encumbrances of whatsoever nature affecting the stand or lot included therein, except those removed under this Act or otherwise, which bonds servitudes and other encumbrances shall, from the date of the registration of such certificate, be taken to bind the freehold title to the same extent for the same period and as effectually as the leasehold or *voorkeurrecht* title had been theretofore bound;

(b) all such servitudes affecting the freehold title of the land comprised in such stand or lot as have not been removed in respect of such stand or lot by agreement between the parties;

and it shall be the duty of the registering officer at the time of the issue of such certificate or grant to endorse thereon a short memorandum containing the particulars of any such bonds servitudes or other encumbrances as are referred to in paragraphs (a) and (b) of this section and duly registered.

Effect of issue of freehold title.

\* 62. (1) The grant of a certificate of freehold title or deed of grant under section *sixty* shall have the effect of vesting in the grantee the freehold of the land included and described therein as fully as if transfer of the land had been made by

‡ This sub-section substituted by Act No. 30 of 1909, sec. 10 (c).

\* For issues of certificates of freehold title in certain townships, see Govt. Notices Nos. 744 of 1909 (*Gazette*, 2/7/09), 1025 of 1909 (*Gazette*, 3/9/09), and 95 of 1910 (*Gazette*, 28/1/10).

transfer deed in freehold to such grantee and freed without any further or other deed of release or discharge from all bonds servitudes interdicts and other encumbrances (if any) from which, by virtue of an agreement under section *sixteen*, the said land is to be freed, subject—

(a) to such of the terms and conditions appertaining to the *voorkeurrecht* or leasehold title of the stand or lot included in the said certificate or grant, or to similar terms and conditions as may be approved by the Governor where the freehold of such stand or lot is vested in the Crown, or, as may be deemed necessary by the township owner, with the approval of the Governor, where the freehold of such stand or lot is vested in any person other than the Crown;

(b) to the condition that the title conferred by such certificate or grant shall and shall not respectively be liable to be annulled, set aside, limited and affected on every ground and by reason of every and any cause, matter, or thing by which the *voorkeurrecht* or leasehold title to the stand or lot included in such certificate or grant would, or would not, have been liable to be annulled, set aside, limited or affected if such property had been regularly transferred to the holder of such certificate or deed of grant; provided that such title shall not be liable to be annulled, set aside, limited, or affected by reason of any conditions or the breach of any conditions contained in such *voorkeurrecht* or leasehold title unless such certificate or grant is under this section made subject to such conditions.

(2) The Governor may make, alter and rescind regulations for the purpose of fixing the terms and conditions to which the freehold title to stands or lots in each and every township shall be subject. Such regulations shall have the same force and effect as the provisions of this Act, from the date of the publication of the regulations in the *Gazette*.

63. Notwithstanding anything to the contrary contained in the law for the time being relating to registration of deeds, it shall not be necessary for the purpose of the issue of a certificate of freehold title or deed of grant under section *sixty* or for the registration of any transfers of any stand or lot in any township falling under the provisions of this Act, to have framed separate diagrams of each stand or lot; but it shall be sufficient for such purpose to refer in such certificate, deed of grant, or transfer deed to the approved or confirmed plan of the township filed of record in the office of the registering officer; provided that nothing in this section contained shall be construed as preventing diagrams of the stands or lots included in any certificate or transfer being attached thereto at the option of the transferor or transferee; provided further that transfer or lease of portions of stands or lots may be registered, if an approved diagram be annexed to the first transfer of such portion, and an approved diagram

Separate diagrams of stands or lots not to be necessary.

of the stand or lot of which it is a portion be lodged at the office where the registration is to take place; provided also that, whenever a servitude on a stand or lot affects only a portion of such stand or lot, a diagram representing the portion of such stand or lot affected by such servitude shall be lodged at the office where the registration of the servitude is to take place, unless such servitude is already represented on the general plan of the township.

Exemption of certificate of title from transfer duty or stamp duty.

64. (1) Notwithstanding anything to the contrary in any law contained, the issue of a certificate or deed of grant of freehold title under this Act upon any stand or lot for which a lease for more than forty years has been registered, or, if not registered, then duly executed before the taking effect of the Transfer Duty Proclamation 1902, shall not be subject to any stamp duty or transfer duty; provided that in case of any such lease for a term of less than forty years, the amount payable as transfer duty shall be reduced by an amount which bears the same proportion to the total amount of transfer duty as the unexpired term of the lease bears to the whole term.

(2) In all cases a registration fee of ten shillings shall be payable in stamps upon the registration of the certificate or deed of grant herein provided for.

Arrear stand licences to be paid and fines and costs before certificate of title granted.

65. Before a certificate of freehold title or deed of grant to any stand is issued under section *sixty* the applicant shall pay all arrear stand licence moneys in respect of such stand (including extra licence moneys fines and costs imposed by Law No. 15 of 1898), in the case of Government townships, and before the date of the agreement for the purchase of freehold title in the case of other townships, unless otherwise agreed.

Provided that upon the recommendation of the Council of the Municipality, where a Municipality exists, or upon the recommendation of the Magistrate where there is no Municipality, the Governor may remit the arrear stand licence moneys upon any stand in a Government township not exceeding in value one hundred pounds for any or all of the months from July to December 1908 (both such months inclusive).

Vesting of mineral rights.

66. (1) A certificate or deed of grant under this Act shall be deemed to vest the mineral rights in or under the stand or lot therein described in the holder thereof unless contrary provision is made in the agreement by which the freehold is obtained or in the lease of such stand or lot theretofore existing.

(2) A certificate or deed of grant in respect of a township laid out before the commencement of this Act on Crown Land shall not be deemed to vest the mineral rights in the holder thereof.

Liability of registered holder or registered owner.

67. (1) Nothing in this Act contained shall be deemed to absolve the registered owner of a stand or lot from paying all municipal rates, taxes in respect of erven or other moneys due to the Council of a Municipality for sanitary services in respect of such stand or lot, and the registering officer shall

not pass transfer or cession of such stand or lot until a certificate signed by the town clerk or other person authorised by the Council as by law provided is produced to such registering officer showing that all such rates taxes and other moneys have been paid provided that the word "transfer" or "cession" shall not include the issue of a certificate or deed of grant of freehold title under this Act.

(2) The registering officer shall not issue a certificate of freehold title under this Act in respect of any stand or lot situate in a district in which definition (B) of rateable property contained in section *three* of the Local Authorities Rating Ordinance 1903 applies until a certificate signed as aforesaid is produced to such registering officer showing that all municipal rates in respect of the freehold interest therein have been paid.

68. In the case of stands in Government townships registered in the name of the Government the *voorkeurrecht* title thereto shall be deemed to have lapsed and shall be cancelled as at the commencement of this Act, and such stands shall thereupon be deemed to vest and shall be registered in the name of the Crown.

Title to stands registered in name of Government.

69. (1) In the case of a stand township or a private leasehold township for which there is no approved or confirmed general plan in existence at the commencement of this Act, no certificate or grant of freehold title shall be issued until an approved or confirmed general plan of the said township has been lodged in the office of the registering officer.

Provision for delay in obtaining certificate owing to general plan not being filed.

(2) A registered holder of a lot or stand in such a township who, if the diagram or general plan had been so filed, would be entitled to receive a certificate or deed of grant of freehold title under the provisions of this Act, shall be entitled to receive a receipt, in the form shown in the Twelfth Schedule.

(3) Such receipt shall be attached to the title-deeds of the stand or lot and form part thereof and shall be endorsed with all memoranda of transfer, bonds or other encumbrance in the same manner as the title-deeds. Such receipt shall be handed to the registering officer on issue by him of the certificate or deed of grant of freehold title in exchange.

(4) Such receipt shall be evidence of the fact of compliance by the said registered holder with those provisions of this Act which entitled him to a certificate or deed of grant of freehold title but shall not be regarded as evidence of such title.

70. The provisions of sub-section (4) of section *sixty* and section *sixty-three* shall apply to private freehold townships and to any lots or stands in semi-Government townships or private leasehold townships sold in freehold whether previously sold in leasehold or not before the commencement of this Act, and the word "purchaser" shall when applied to such townships, stands, or lots be substituted for the words "registered holder" or "registered owner" (as the case may be) occurring in sub-section (4) of section *sixty*.

Application of sub-section (4) section *sixty* and section *sixty-three* to semi-Government townships and private leasehold townships.

## CHAPTER IV.

## MISCELLANEOUS AND CONCLUSION.

Service of notices and other documents.

71. Any notice or other document required by this Act to be served upon any person shall be deemed to be effectually served if delivered personally to such person or left at or sent by registered post to his last known place of abode or business, or, whenever he is absent from the Colony, if such notice or other document is served in manner aforesaid on any agent in this Colony of such person.

Reservation of mineral rights from freehold title.

72. Save as is otherwise by this Act provided, it shall be lawful for a "township owner" as defined by this Act, or for an "owner" as defined by the principal law, to sell any lot in a township in freehold subject (*inter alia*) to reservation by such owner of all rights to precious or base metals or precious stones thereon or thereunder.

Title and date of operation of Act.

73. This Act may be cited for all purposes as the Townships Amendment Act 1908, and shall be and read as one with the principal law and shall come into operation on the date on which the Precious and Base Metals Act 1908 comes into operation.\*

## FIRST SCHEDULE.

## LIST OF STAND TOWNSHIPS IN THE COLONY.

Mining District of Johannesburg—	
Albertskroon.	Hamberg.
Booyens (portion on claims).	Jeppestown (including Belgravia).
Braamfontein Werf.	Jeppestown South.
Braamfontein (Lindeques).	Johannesburg.
Burgersdorp.	Marshalls.
City and Suburban (including all extensions).	Mayfair.
Denver.	Malvern.
Fordsburg.	Roodepoort.
Florida (old).	Regents Park.
Florida (new).	Roodepoort North.
Ferreiras.	Springfield.
Germiston North.	Sunnyside.
Germiston East.	Kenilworth (if and when authorised).
Germiston West.	Wanderers View.
Mining District of Heidelberg—	
Heidelberg.	Coetzeeberg.
Greylingstad.	
Mining District of Klerksdorp—	
Klerksdorp.	Venterskroon.
Pienaarsdorp.	Henley.
Mining District of Barberton—	
Barberton.	Kaapsche Hoop.
Berea.	Avoca.
Kimberley Square.	

\* This date was 1st January, 1909; see Govt. Notice No. 3 of 1909 (*Gazette*, 2/1/09).

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Mining District of Ottoshoop— Ottoshoop (old).	Ottoshoop (new).
Mining District of Pietersburg— Haenertsburg. Leydsdorp.	Old Agatha. Selati.
Mining District of Krugersdorp— Krugersdorp. Luipaardsvlei. Lewisham.	Kocksoord. Blaauwbank. Randfontein.
Mining District of Boksburg— Boksburg. Boksburg North Extension.	Kleinfontein.

SECOND SCHEDULE.

TABLE A.

The left-hand column indicates the value of a stand as defined by this Act. The first horizontal series of figures represents the various rates of monthly stand licence moneys payable to the Government, either directly or indirectly.

The amount payable under section *nine* sub-section (1) (a) or under section *ten* sub-section (2) (a) is the amount appearing in the column under the rate of monthly stand licence moneys for any given stand opposite the value of the stand as set out in the left-hand column.

Value.	10d.	1s.	1s. 8d.	1s. 11d.	2s.	2s. 6d.	2s. 11d.	3s. 0d.	3s. 4d.	3s. 9d.	3s. 10d.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
To £100 .. .. .	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.
From £101 to £250 ..	0 11 2	0 13 4	1 2 3	1 5 7	1 6 8	1 13 4	1 18 11	2 0 0	2 4 6	2 10 0	2 11 2
From £251 to £350 ..	1 2 3	1 6 8	2 4 6	2 11 2	2 13 4	3 6 8	3 17 10	4 0 0	4 8 11	5 0 0	5 2 3
From £351 to £450 ..	1 13 4	2 0 0	3 6 8	3 16 8	4 0 0	5 0 0	5 16 8	6 0 0	6 13 4	7 10 0	7 13 4
From £451 to £550 ..	2 4 6	2 13 4	4 8 11	5 2 3	5 6 8	6 13 4	7 15 7	8 0 0	8 17 10	10 0 0	10 4 6
From £551 to £650 ..	2 15 7	3 6 8	5 11 2	6 7 10	6 13 4	8 6 8	9 14 6	10 0 0	11 2 3	12 10 0	12 15 7
From £651 to £750 ..	3 6 8	4 0 0	6 13 4	7 13 4	8 0 0	10 0 0	11 13 4	12 0 0	13 6 8	15 0 0	15 6 8
From £751 to £850 ..	3 17 10	4 13 4	7 15 7	8 18 11	9 6 8	11 13 4	13 12 3	14 0 0	15 11 2	17 10 0	17 17 10
From £851 to £950 ..	4 8 11	5 6 8	8 17 10	10 4 6	10 13 4	13 6 8	15 11 2	16 0 0	17 15 7	20 0 0	20 8 11
From £951 to £1,050 ..	5 0 0	6 0 0	10 0 0	11 10 0	12 0 0	15 0 0	17 10 0	18 0 0	20 0 0	22 10 0	23 0 0
From £1,051 to £1,150 ..	5 11 2	6 13 4	11 2 3	12 15 7	13 6 8	16 13 4	19 8 11	20 0 0	22 4 6	25 0 0	25 11 2
From £1,151 to £1,250 ..	6 2 4	7 6 8	12 4 6	14 1 2	14 13 4	18 6 8	21 7 10	22 0 0	24 9 0	27 10 0	28 2 4
From £1,251 to £1,350 ..	6 13 6	8 0 0	13 6 9	15 6 9	16 0 0	20 0 0	23 6 9	24 0 0	26 13 6	30 0 0	30 13 6
From £1,351 to £1,450 ..	7 4 8	8 13 4	14 9 0	16 12 4	17 6 8	21 13 4	25 5 8	26 0 0	28 18 0	32 10 0	33 4 8
From £1,451 to £1,500 and over	7 15 10	9 6 8	15 11 3	17 17 11	18 13 4	23 6 8	27 4 7	28 0 0	31 2 6	35 0 0	35 15 10

A.D. 1908.]

Townships Amendment.

[Act No. 34.



TABLE A (continued).

Value.	5s. 0d.	5s. 8d.	5s. 9d.	7s. 6d.	8s. 4d.	11s. 3d.	15s. 0d.	22s. 6d.	45s. 0d.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
To £100 .. .. .	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.
From £101 to £250 .. ..	3 6 8	3 15 7	3 16 8	5 0 0	5 11 2	7 10 0	10 0 0	15 0 0	30 0 0
From £251 to £350 .. ..	6 13 4	7 11 2	7 13 4	10 0 0	11 2 3	15 0 0	20 0 0	30 0 0	60 0 0
From £351 to £450 .. ..	10 0 0	11 6 8	11 10 0	15 0 0	16 13 4	22 10 0	30 0 0	45 0 0	90 0 0
From £451 to £550 .. ..	13 6 8	15 2 3	15 6 8	20 0 0	22 4 6	30 0 0	40 0 0	60 0 0	120 0 0
From £551 to £650 .. ..	16 13 4	18 17 10	19 3 4	25 0 0	27 15 7	37 10 0	50 0 0	75 0 0	150 0 0
From £651 to £750 .. ..	20 0 0	22 13 5	23 0 0	30 0 0	33 6 8	45 0 0	60 0 0	90 0 0	180 0 0
From £751 to £850 .. ..	23 6 8	26 8 11	26 16 8	35 0 0	38 17 10	52 10 0	70 0 0	105 0 0	210 0 0
From £851 to £950 .. ..	26 13 4	30 4 5	30 13 4	40 0 0	44 8 11	60 0 0	80 0 0	120 0 0	240 0 0
From £951 to £1,050 .. ..	30 0 0	34 0 0	34 10 0	45 0 0	50 0 0	67 10 0	90 0 0	135 0 0	270 0 0
From £1,051 to £1,150 .. ..	33 6 8	37 15 7	38 6 8	50 0 0	55 11 2	75 0 0	100 0 0	150 0 0	300 0 0
From £1,151 to £1,250 .. ..	36 13 4	41 11 2	42 3 4	55 0 0	61 2 4	82 10 0	110 0 0	165 0 0	330 0 0
From £1,251 to £1,350 .. ..	40 0 0	45 6 9	46 0 0	60 0 0	66 13 6	90 0 0	120 0 0	180 0 0	360 0 0
From £1,351 to £1,450 .. ..	43 6 8	49 2 4	49 16 8	65 0 0	72 4 8	97 10 0	130 0 0	195 0 0	390 0 0
From £1,451 to £1,500 and over	46 13 4	52 17 11	53 13 4	70 0 0	77 15 10	105 0 0	140 0 0	210 0 0	420 0 0

EXAMPLES.—If a stand in a Government Township is valued at £325 and the monthly stand licence money payable thereon is 7s. 6d. per month, the total sum payable for freehold will be £10. If the value is the same and the licence money is 11s. 3d. per month, the amount payable for freehold will be £15.

If a stand in a semi-Government Township is valued at £325 and the Government's share of the monthly stand licence moneys is 5s. per month, then, after payment of £6 13s. 4d. in respect of the Government's share, no further sum will be payable in respect of such share, but the share accruing to the township owner will be payable as before.

TABLE "B."

As in Table "A," the column headed "value" indicates the value of a stand as defined by this Act.

The column headed "number of months" represents the number of months for which Stand Licence Money must be paid under sub-section (1) (b) section *nine* or under sub-section (2) (b) section *ten* before the registered holder becomes exempt from payment to the Government, directly or indirectly, of such monthly Stand Licence Money.

The number of months for which Stand Licence Money must be paid under sub-section (1) (b) section *nine* or under sub-section (2) (b) of section *ten* is the number appearing in the column headed "number of months" for any given stand shown opposite the value of the stand, as set out in the left-hand column.

Value.									Number of Months.
To	£100	..	..	..	..	..	..	..	Nil.
From	£101 to £250	..	..	..	..	..	..	..	14 months.
"	£251 to £350	..	..	..	..	..	..	..	27 "
"	£351 to £450	..	..	..	..	..	..	..	40 "
"	£451 to £550	..	..	..	..	..	..	..	54 "
"	£551 to £650	..	..	..	..	..	..	..	67 "
"	£651 to £750	..	..	..	..	..	..	..	80 "
"	£751 to £850	..	..	..	..	..	..	..	94 "
"	£851 to £950	..	..	..	..	..	..	..	107 "
"	£951 to £1,050	..	..	..	..	..	..	..	120 "
"	£1,051 to £1,150	..	..	..	..	..	..	..	134 "
"	£1,151 to £1,250	..	..	..	..	..	..	..	147 "
"	£1,251 to £1,350	..	..	..	..	..	..	..	160 "
"	£1,351 to £1,450	..	..	..	..	..	..	..	174 "
"	£1,451 to £1,500 and over	..	..	..	..	..	..	..	187 "

THIRD SCHEDULE.

FORM OF RECEIPT FOR PAYMENT.\*

*The Townships Amendment Act 1908.*  
 Registered Holder .....  
 Stands or Lots .....  
 Township of .....  
 Amount of Purchase Price .. £     s.     d.  
 Instalment now paid     .. £     s.     d.

*The Townships Amendment Act 1908.*  
 This is to certify that.....  
 the Registered Holder of stands (or Lots) Nos.....  
 .....  
 in the Township of..... has paid to me  
 the sum of..... †  
 being the ..... instalment of the price for  
 conversion to freehold title of the said stands (or lots), together with  
 interest to date on the outstanding balance, the total conversion price  
 being..... †  
 Dated at..... this..... day of..... 190..  
 Total Purchase Price, £.....  
 Amount this day paid, £.....  
 Noted under section *fifteen*.....  
 of the above Act in Bk.....  
 fol..... this..... day  
 of..... 1908.

*Signature of Township Owner  
 or other person authorised  
 to receive payments.*

(Registrar of Deeds).  
 (Mining Commissioner).

Revenue  
Stamp  
duly  
cancelled  
according  
to law.

\* NOTE.—This Form must be completed in duplicate for each payment. † The amount must be described fully in words, not in numerals.

## FOURTH SCHEDULE.

SOLEMN DECLARATION OF TOWNSHIP OWNER (UNDER SECTION *Eighteen*) THAT  
A REGISTERED OWNER OR PURCHASER IS IN ARREARS.

I, ..... of the .....  
of ..... do solemnly declare :

(1) That I am the .....  
of the ..... Company, Limited,  
and that as such .....  
I am in control of the collection of Stand Licence Moneys and of the Books of  
Account thereof for the Township of .....

(2) That .....  
the Registered Holder of Stand  
Lot No. .... in the said Township,  
has not paid either directly or indirectly any instalments of Purchase Price,  
Stand Licence Moneys, or Rentals\* which are due since the ..... day  
of ..... 190...., and that according to the conditions of  
the lease under which the said .....  
holds the said Stand, a copy of which is hereto attached, the said .....  
Company, Limited, is entitled to cancel the  
said Lease.

Declared before me at ..... this .....  
day of ..... 190....

Justice of the Peace.

NOTE.—If instalments of Purchase Price are in arrear the following para-  
graph shall be substituted for paragraph (2) :—

That ..... the Registered Holder of  
Lot No. .... in the said Township, has not paid either directly or  
indirectly any instalments of Purchase Price due since the .....  
day of ..... 190...., and that according to the terms of the  
Agreement under which the said ..... is entitled  
to obtain freehold of the said lot, a copy of which is hereto attached, the said  
..... Company, Limited, is entitled to  
cancel the said Agreement.

## FIFTH SCHEDULE.

AGREEMENT OF PURCHASE IN FREEHOLD (UNDER SECTION *Thirty-two*) OF A STAND  
IN THE TOWNSHIP OF BURGHERSDORP, JOHANNESBURG.

I, ..... being one of  
the persons described in section *thirty-two* of the Townships Amendment Act,  
1908, do hereby agree with the Government of the Transvaal, herein represented  
by ..... the Mining  
Commissioner at Johannesburg, for the purchase of Stand No. ....  
in the township of Burghersdorp for the sum of £..... payable as  
in the said Act provided, the first payment to become due on the first day of  
..... 190....

I, .....  
the Mining Commissioner, do hereby on behalf of the Government of the Trans-  
vaal, approve of and agree to the sale of the said Stand No. .... to  
the said .....  
for the sum of £..... payable as above set forth.

Dated at Johannesburg this ..... day of ..... 190....

\* Delete "Purchase Price," "Stand Licence Moneys," and "Rentals," wherever inapplicable.

## SIXTH SCHEDULE.

FORM OF RECEIPT UNDER SECTION *Thirty-five* IN RESPECT OF VREDEDORP TOWNSHIP.

THIS IS TO CERTIFY that the standholder of Stand No.....in the Township of Vrededorp has paid to the Municipal Council of Johannesburg :

- (a) all stand licence moneys in arrear in respect of such stand up to the date of payment of the first instalment of the purchase price of the freehold ;
- (b) all charges due to the said Council for sanitary service which have become chargeable as from the 1st January, 1903 ;
- (c) all charges due to the said Council for the supply of water, gas, or electricity, and for all other municipal service in respect of such stand ; and
- (d) all assessment rates due in respect of such stand.

AND FURTHER, that the said standholder has paid to the said Municipal Council the sum of.....pounds, being.....instalment of the price of the freehold title to the said stand No....., the total price of such freehold being fifteen pounds sterling, together with interest on the portion or portions of the said purchase price unpaid from time to time in terms of the Vrededorp Stands Act 1907.

Dated this.....day of.....1908.

.....  
Town Treasurer of Johannesburg.

Total purchase price of freehold .. .. . £15 0 0  
Amount paid inclusive of the instalment hereby certified .. ..

## SEVENTH SCHEDULE.

## DESCRIPTION OF "PROSPECT TOWNSHIP."

That portion of the proclaimed farm Doornfontein No. 140, District Witwatersrand, Mining District of Johannesburg, included within the lines joining the following beacons, viz. :—

Beacon D502, D505, D504, D528, D175, D41, D74, J4, D179, D529, D177, and D502 on the said farm Doornfontein No. 140.

## EIGHTH SCHEDULE.

DESCRIPTION OF AREA COMPRISING BRICKFIELDS TO BE TRANSFERRED TO THE COUNCIL OF THE MUNICIPALITY OF KRUGERSDORP UNDER SECTION *Forty-six*.

Beginning at Beacon B72 at the south-westerly corner of the farm Paardeplaats No. 73, District Witwatersrand ; thence in an easterly direction along the southerly boundary of the said farm to the easterly side of Burgers Street ; thence in a northerly direction along the easterly side of Burgers Street to a point where the southerly boundary of Wagen Street, if extended, would meet the easterly boundary of Burgers Street ; thence along the southerly side of Wagen Street to its intersection with the westerly side of Oven Street ; thence along the westerly side of Oven Street to the north-east corner of Bewaarplaats No. 8 ; thence along the northerly boundaries of Bewaarplaats No. 8, Brickmaking Site No. 8, and Bewaarplaats No. 7 ; and continuing in the same line to the westerly side of Mijn Street ; thence in a southerly direction along the westerly side of Mijn Street to its intersection with the boundary between the farm Paardeplaats and the farm Waterval No. 124, District Witwatersrand ; thence in a southerly direction along the last-mentioned boundary to Beacon B72, the place of beginning.

## NINTH SCHEDULE.

DESCRIPTION OF AREA COMPRISING "THE OLD BRICKFIELDS" TO BE TRANSFERRED TO THE COUNCIL OF THE MUNICIPALITY OF KRUGERSDORP UNDER SECTION *Forty-eight*.

That portion of an area of land situated on the farm Paardekraal No. 73, District Witwatersrand, known as the "Old Brickfields," situate on the east of the continuation of Market Street in the Town of Krugersdorp and between the Stand Township of Krugersdorp on the south and Erven Nos. 124-135 in the District Township of Krugersdorp on the north and extending along the Spruit in an easterly direction, approximately 3,100 feet, from the said continuation of Market Street between the Stand and Erven Township of Krugersdorp, and which area has been divided into brickmakers' stands, Nos. 1 to 48 inclusive, as shown by a plan dated 13th October, 1897, signed by J. J. W. van Staveren, and now filed under No. 251 in the Office of the Registrar of Mining Rights.

## TENTH SCHEDULE.

CERTIFICATE OF TOWNSHIP TITLE UNDER SECTION *Fifty* OF THE TOWNSHIPS AMENDMENT ACT 1908.

Know all men whom it may concern :

Whereas.....  
is the registered owner of.....  
(here describe the land held under his title deeds) held by him under Deed of Transfer (or Grant) No....., dated.....; and

Whereas he has laid out a township called the Township of.....  
.....upon a portion of the said land hereinafter described; and

Whereas under the provisions of section *fifty* of the Townships Amendment Act 1908 it is necessary that this certificate be issued in respect of the said portion;

Now therefore I, the Registrar of Deeds, do hereby certify that the said  
.....is the registered owner of.....  
.....(here describe the portion) now known as the  
Township of....., measuring.....  
.....as will more fully appear from the Diagram S. G. No....., hereunto  
annexed framed by Surveyor.....in.....

.....and approved  
confirmed by the Surveyor-General on the  
.....day of.....190..., and subject to  
such conditions as are mentioned or referred to in the said Deed of Transfer  
(or Grant) and to the provisions of the Townships Amendment Act 1908.

And that by virtue of these presents the said.....  
his heirs, executors, administrators, or assigns now is and henceforth shall be  
entitled thereto conformably to local custom, Government however, reserving  
its rights.

In witness whereof I, the said Registrar, have subscribed to these presents  
and have caused my seal of office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds, Pretoria,  
on the.....day of.....in the year  
of our Lord One Thousand Nine hundred and.....

.....  
*Registrar of Deeds.*

Registered in the Register of.....kept at Pretoria,  
book.....page.....on the above date.

NOTE.—Where the land comprised in the township is subject to  
any special conditions or servitudes, such conditions or  
servitudes shall be set out in this Certificate.

ELEVENTH SCHEDULE.

CERTIFICATE OF CONVERSION TO FREEHOLD TITLE.

I,.....the Registrar of Deeds (or Rand Townships Registrar) do hereby certify that.....of the.....of.....in.....(state profession or occupation) is the owner under the provisions of the Townships Amendment Act 1908 of the freehold of Lots numbered.....in the Township of.....according to a General Plan S.G. No.....of the said Township of.....framed by.....Surveyor.....in.....and approved and confirmed by the Surveyor-General on the.....day of.....19....., subject to the provisions of the said Townships Amendment Act 1908 and to the special encumbrances endorsed hereon and to conditions numbered.....in the Twelfth Schedule to the said Act.

And that by virtue of these presents the said.....his heirs, executors, administrators, and assigns, now is and henceforth shall be entitled thereto, conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the said Registrar, have subscribed to these presents and caused my Seal of Office to be affixed hereto.

Thus done and executed at the Office of the Registrar of Deeds (Rand Townships Registrar).....on this the.....day of.....in the year of Our Lord One thousand Nine hundred and.....

Registrar of Deeds (Rand Townships Registrar).

TWELFTH SCHEDULE.

FORM OF RECEIPT UNDER SECTION Sixty-nine.

I,....., Mining Commissioner, do hereby certify that.....the registered holder of.....Stand No.....Lot.....in the Township of.....has paid the full amount of purchase price of the freehold of the said stand/lot and is entitled to a certificate of freehold title to the said stand/lot upon the lodging by the township owner of an approved or confirmed diagram of the said Township of.....subject to the conditions of The Townships Amendment Act 1908.

Dated at.....this.....day of.....190.....

Mining Commissioner.

Act No. 35 of 1908.] [Promulgated 2nd September, 1908.]

\* AN ACT

TO CONSOLIDATE AND AMEND THE LAW RELATING TO PROSPECTING AND MINING FOR PRECIOUS METALS AND BASE METALS AND TO PROVIDE FOR MATTERS INCIDENTAL THERETO.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

PRELIMINARY.

Right of mining for and disposing of precious metals vested in the Crown and of base metals in owner of land

1. The right of mining for and disposing of all precious metals is vested in the Crown; the ownership of, and the right of mining for and disposing of base metals on Crown or private land is vested in the owner of such land.

Repeal of laws.

2. The laws mentioned in the First Schedule to this Act shall be and are hereby repealed to the extent set forth in the second column of such Schedule.

Interpretation of terms.

3. In this Act unless inconsistent with the context ;  
 "arbitration" shall mean arbitration in accordance with the provisions of the Expropriation of Lands and Arbitration Clauses Proclamation 1902, and of the Arbitration Ordinance 1904, and any amendment of such laws ;  
 "base metals" shall mean quicksilver, iron, ~~lead~~, copper, tin, zinc, cobalt, nickel, arsenic, manganese, antimony, bismuth, as well as the ores of such metals, and sulphur, coal, graphite, or any other mineral substance, for the exploitation of which no special provision is made by law ;  
 "claim" shall mean an area of ground which in accordance with this Act or a prior law has been lawfully pegged as a claim, and on which the right to prospect or dig for precious or base metals has been lawfully obtained ;  
 "coloured person" shall mean any African or Asiatic native or any other person who is manifestly a coloured person ;  
 "commencement of this Act" shall mean the date on which this Act came into operation ;  
 "Crown land" shall mean

\* See Act No. 13 of 1910.



- (a) all land in respect of which the Crown is the holder of the mineral rights ; and
- (b) all land which has or may become the property of The Transvaal Land Settlement Board in accordance with section *fifty-two* of The Transvaal Constitution Letters Patent 1906, or the Land Settlement Act 1907, unless the Crown is not the holder of the mineral rights in respect of such land or has alienated or contracted to alienate such rights ;
- “*Diagram*” shall mean a diagram prepared by a person lawfully admitted to practise as a land surveyor and approved by the Surveyor-General without publication ; and “*confirmed diagram*” shall mean a diagram confirmed by the Surveyor-General after notice of confirmation has been published in manner prescribed by regulation ;
- “*dig*” shall mean intentionally to win precious metals or base metals (as the case may be) from the earth, and shall include all excavating necessary for the purpose, whether by underground working, open cutting, boring, or otherwise ;
- “*digger’s license*” shall mean a license mentioned in subsection (3) of section *forty*, and shall include a digger’s license issued or renewed under Law No. 15 of 1898, and current at the commencement of this Act ;
- discoverer*” shall mean a person who holds a certificate issued under section *nineteen* ;
- Governor*” shall mean the officer for the time being administering the Government of this Colony, acting by and with the advice of the Executive Council thereof ;
- “*mine*” when used as a verb shall have the same meaning as “*dig*” ;
- holder of the mineral rights*” shall mean, in relation to land, the owner thereof, or, if the mineral rights are for the time being severed from the ownership of the land, the person registered in the Deeds Office as holding such rights ;
- “*Mining Commissioner*” shall mean any person appointed as such under this Act, or a person lawfully acting in such capacity, and when used in reference to any mining district, shall mean the person appointed or lawfully acting as Mining Commissioner for such district ;
- “*mining district*” shall mean one of the districts into which the Colony is for the time being divided in accordance with this Act ; and, when used in reference to land, shall mean the mining district in which such land is situate ;
- “*mining title*” shall mean
- (a) a mynpacht-brief issued under this Act or Law No. 15 of 1898 or a prior law ;
  - (b) a prospecting or digger’s license issued under this Act, under Law No. 15 of 1898, or a prior law ;
  - (c) a mynpacht-brief issued under article *thirty-one* of Law No. 15 of 1898 ;

- (d) any right to mine granted by the Governor under section *forty-six* or *forty-seven* of this Act ;
- (e) a license for a base metal claim issued under Part III of this Act, or under Law No. 14 of 1897 or a prior law, and shall include a lease granted under the Base Metal Law Amendment Ordinance 1903 ;
- (f) any other right to mine existing at the commencement of this Act and lawfully granted ;
- “ Minister ” shall mean the Minister of Mines, or any person lawfully acting in such capacity ;
- “ mynpacht ” shall mean ground held as a mynpacht, whether at the commencement of or under this Act ;
- “ mynpacht-brief ” shall mean the document of title under which a mynpacht is held ;
- “ owner ” shall mean, in relation to private land, the person registered as such in the Deeds Office of this Colony ;
- “ precious metals ” shall mean
- (a) gold and silver, and their ores and gold or silver found in combination with a base metal, where such gold or silver cannot be worked apart from such base metal, and the value of the gold or silver exceeds the cost of producing both such precious and base metal ;
- (b) any other metal (not being a base metal) declared by proclamation of the Governor in the *Gazette* to be a precious metal for the purposes of this Act and the regulations ;
- “ private land ” shall mean any farm or piece of land (whether held in divided or undivided shares) which is not Crown land ;
- “ proclaimed field ” shall include all proclaimed land, and so much of any unproclaimed land as may be declared portion of a proclaimed field under this Act or is at the commencement thereof a proclaimed field ;
- “ proclaimed land ” shall mean land proclaimed a Public Digging under this Act or Law No. 15 of 1898 or a prior law, provided it has not been lawfully deproclaimed ;
- “ prospecting ” shall include all work which is necessary for or incidental to the search for precious or base metals ;
- “ prospecting permit ” shall mean such permit as is mentioned in section *fourteen* ;
- “ prospecting license ” shall mean a license issued under section *thirty-two*, and shall include a prospecting license issued or renewed under Law No. 15 of 1898 and current at the commencement of this Act ;
- “ prospector ” shall mean the person or persons by whom or on whose behalf a prospecting permit is held under this Act, and shall include the holder of mineral rights prospecting on land over which he holds such rights ;
- “ regulation ” shall mean a regulation set forth in the Third Schedule to this Act or any additions to or alterations of such Schedule made by the Governor under the powers of this Act ;

“Treasurer” shall mean the Colonial Treasurer or any person lawfully acting in such capacity.

4. This Act is divided into four parts relating to the following matters :— Division of Act.

Part I, Administration of Mining Laws ;

Part II, Precious Metals ;

Part III, Base Metals ;

Part IV, General and Miscellaneous ;

and Part II of this Act is divided into Chapters relating to the following subjects :—

Chapter I, Prospecting ;

Chapter II, Discovery ;

Chapter III, Rights of owners of private land ;

Chapter IV, Proclamation of Public Diggings ;

Chapter V, Pegging of claims and license moneys in respect thereof ;

Chapter VI, Further rights to mine on Public Diggings ;

Chapter VII, Bezitrecht ;

Chapter VIII, Water-rights and use of water ;

Chapter IX, Surface rights on ground held under mining title, and use of other proclaimed land ;

Chapter X, Stands outside Townships ;

Chapter XI, Lapsing of rights ;

Chapter XII, Dealing in unwrought precious metals.

## PART I.

### ADMINISTRATION OF MINING LAWS.

5. (1) There shall be a department to be known as the “Mines Department”, which shall be subject to the direction and authority of the Minister. Mines Department.

(2) The function of the Mines Department shall be the supervision and control of the mining industry, and the exercise of all rights, powers, and jurisdiction vested in the Crown or conferred upon its officers by this Act or by any other law relating to precious metals, precious stones, or base metals, or any other mineral substance.

6. The Governor shall, from time to time, appoint an officer to be styled the Government Mining Engineer, who shall carry out the powers and duties conferred and imposed upon him by this Act, or by regulation, or by any law, and such other powers and duties as may be lawfully assigned to him by the Minister. The Governor may further, from time to time, appoint properly qualified inspectors and other officers to assist the Government Mining Engineer in the carrying out of such powers and duties. Government Mining Engineer.

7. (1) The mining districts of Johannesburg, Boksburg, Krugersdorp, Pretoria, Heidelberg, Klerksdorp, Pietersburg, Barberton, Pilgrims Rest, and Ottoshoop, the boundaries whereof have been defined prior to the commencement of this Act, shall be mining districts into which this Colony is divided ; provided that the Governor may, from time to time, by proclamation in the *Gazette*, combine any two or more of such mining districts which form one continuous area into one mining district, or may sever Division of Colony into mining districts and classification of such districts for purposes of application of special provisions of this Act.

any portion of a mining district from the remaining portion and constitute such severed portion a new mining district, or a subdivision of an existing mining district, or may alter and adjust the boundaries of adjoining mining districts.

(2) The mining districts aforesaid shall be and are hereby divided into two classes that is to say

class A, comprising the mining districts of Johannesburg, Boksburg, and Krugersdorp: and

class B, comprising the mining districts of Pretoria, Heidelberg, Klerksdorp, Barberton, Pietersburg, Pilgrims Rest, and Ottoshoop;

provided that the Governor may, from time to time by proclamation in the *Gazette*, declare that any mining district or a portion thereof shall be comprised in either one class or the other.

(3) Wherever any provision of this Act or any regulation is not expressly made applicable to one class, such provision shall be deemed to apply to both classes, and wherever any such provision or regulation is expressly made applicable to one class, the same shall be deemed to apply exclusively to such class.

Mining Com-  
missioner. \*

8. The Governor shall from time to time appoint an officer to be styled "Mining Commissioner" for one or more mining districts; every Mining Commissioner, subject to the orders and directions of the Minister, shall be the head and have the supervision of all proclaimed fields within his district or districts, and shall have and exercise the powers and duties specially conferred and imposed by this Act, or by regulation, or by any other law, and any other powers and duties that may be lawfully assigned to him by the Minister, and in particular he shall have power to determine, subject to this Act or to regulation, the places where prospecting, pegging or digging shall not take place. The Mining Commissioner shall further have power to make reservations for roads, rights-of-way, water-rights, or any other purpose for which a reservation may be required or authorized under this Act or any other law. Where no special provision is made by law or municipal bye-law, the Mining Commissioner shall regulate matters in relation to the sanitary condition of any proclaimed field in his district or districts.

Appointment  
of other  
officers.

9. The Governor may, from time to time, appoint such other officers of the Mines Department as may be necessary for the effectual exercise of its function and the carrying out of the provisions of this Act, or any regulation, or of any law for the time being regulating prospecting and mining for precious metals, precious stones, base metals, or any other mineral substance.

## PART II. PRECIOUS METALS.

### CHAPTER I. PROSPECTING.

Land which is  
open to the  
public for  
prospecting.

\*10. (1) Subject to the provisions of this Chapter prospecting for precious metals under the authority of a prospecting permit may be carried on—

\* For throwing open and closing for prospecting, see Chronological Table.

- (a) on proclaimed Crown land, not held under mining title, if such land was proclaimed land at the commencement of this Act ;
- (b) on all unproclaimed Crown land ;
- (c) on unproclaimed private land, on the written request of the holder of the mineral rights ;
- (d) on unproclaimed private land on which
- (i) no bona fide prospecting by the owner or other person acting under contract with him ; or
- (ii) no bona fide agricultural, pastoral, or other farming operations by the owner personally or by a white person on his behalf ;

are being carried on. For the purposes of this paragraph, agricultural, pastoral or other farming operations shall not be deemed bona fide unless carried on for three months during the twelve months immediately preceding the notice mentioned in sub-section (2) (b) (i) of this section.

†(2) Land shall not be open to prospecting under this section until by notice in the *Gazette* and in a newspaper circulating in the mining district, the Minister has declared it so open, and the Minister may, in such or any subsequent notice, attach conditions to the prospecting ; provided that

(a) in the case of land described in sub-section (1) (a), a portion thereof only may in the Minister's discretion be declared open to prospecting ;

(b) in the case of land described in sub-section (1) (d)

(i) the Minister shall first cause three months' written notice to be served upon the owner ; and

(ii) if the owner alleges that the land has been occupied as aforesaid or that prospecting operations have been carried on thereon as aforesaid, the truth of that allegation shall be determined by arbitration.

(3) The Minister may at any time by like notice withdraw from prospecting any land declared open to prospecting under this section, without prejudice to any rights acquired under the prospecting permit while the land was so open.

11. Subject to the provisions of this Chapter, prospecting for precious metals may be carried on under the authority of a prospecting permit on unproclaimed private land (other than is described in the last preceding section) when the holder of such permit has obtained from the holder of the mineral rights his written consent to prospect for precious metals on such land ; provided that

Prospecting on unproclaimed private land which is not declared open.

(a) such written consent shall, before prospecting commences, be produced to the Mining Commissioner and a copy thereof lodged at his office ;

(b) the total period for which such consent is given be stated therein ;

(c) such total period be not exceeded.

12. The owner or the holder of the mineral rights over unproclaimed private land may himself, or by his servants acting

Prospecting by owner or holder of mineral rights.

† See Govt. Notice No. 15 of 1909 (*Gazette*, 2/1/09) for conditions of prospecting.

under his authority, prospect for precious metals on such land without a prospecting permit; provided he give notice of such intention to the Mining Commissioner.

Prospecting on land settlement lands and native locations.

12 1/2 13. Nothing in sections <sup>see s. 20/24.</sup> ten, eleven or twelve contained shall be deemed to authorize prospecting

(a) on Crown land, which has or may become the property of the Transvaal Land Settlement Board under section *fifty-two* of the Transvaal Constitution Letters Patent 1906 or the Land Settlement Act 1907, until the said Board has been consulted in accordance with the provisions of sub-section (5) of section *twenty-eight* of the said Act; or

(b) on a native location on which, if it be Crown land, prospecting shall only be allowed after the written permission of the Minister for Native Affairs has been obtained, and if it belong to a chief and tribe, after their written consent and the written permission of such Minister have been obtained.

Issue of and rights attaching to prospecting permits.

14. (1) Subject to the provisions of this Chapter, a prospecting permit shall, upon application, be issued by any Mining Commissioner, or other person authorized thereto by the Minister, to any white person of the age of sixteen years or upwards either on his own behalf, or on behalf of another such person or persons or of an incorporated company. Every prospecting permit shall be in the form prescribed by regulation.

(2) A prospecting permit shall be available for prospecting for precious metals throughout the Colony, subject to the provisions of this Act. It shall be in force for twelve months from the date of its issue, and a fee of five shillings shall be payable therefor.

(3) A prospector shall, for the purpose of authorized prospecting, be entitled to graze, free of cost, four draught animals, and, with the written consent of the Mining Commissioner, such additional number of draught animals up to sixteen as may appear necessary; the prospector shall further have the right for his personal requirements to use such water (not being water artificially conserved), and to take so much dead wood as the Mining Commissioner may authorize in writing.

How exclusive right of prospecting on an area may be obtained.

15. (1) On land on which prospecting is permitted under section *ten*, a prospector may peg an area (called a prospecting area) as far as possible rectangular in shape, and not exceeding two thousand feet in length and two thousand feet in breadth. Such area shall be pegged by placing, in accordance with regulation, pegs on its sides and angular points. A prospector who has fulfilled the conditions of this section shall have the exclusive right of prospecting in such area so long as he prospects to the satisfaction of the Mining Commissioner and maintains his pegs according to regulation. In default of compliance by the prospector with the provisions of this section, the Mining Commissioner may declare forfeited the rights acquired thereunder, and such area, and any portion thereof, shall not be open for pegging by the same prospector within a period of twelve months from the date of such forfeiture.

(2) The prospector may at any time abandon the area and shall report the pegging or the abandonment to the Mining Commissioner or the Beacon Inspector within one month, and if he

abandon the area or forfeit the rights aforesaid, or whenever his prospecting permit expires, he shall remove the pegs. If the prospector fails to comply with any provision of this sub-section he shall be liable to a fine not exceeding ten pounds.

(3) No prospector shall be entitled under this section to peg or hold more than one prospecting area at one and the same time in any one mining district,

16. (1) ~~No person shall prospect in any town, village, or township, or on any public square, street, road, railway, cemetery, location for coloured persons, stand, places where tailings are heaped, bewaarplaats, machinery site, water-right, or on any other place reserved under this Act or a prior law or pointed out by the Mining Commissioner as reserved from prospecting, or on any~~

Where prospecting not permitted.

~~(2) A prospecting permit shall not authorize the holder to enter upon any land used as a garden, orchard, vineyard, nursery, or plantation, or on land under cultivation, or within one hundred yards of any spring, well, borehole, stream, reservoir, dam, water-course, or waterworks, or within two hundred yards of any house, homestead, or building.~~

## CHAPTER 11.

### DISCOVERY

17. (1) It shall be the duty of every prospector who has discovered precious metals, to give notice in writing of such discovery to the Mining Commissioner, within fourteen days thereafter if the discovery be in a mining district comprised in class A, and within thirty days thereafter if the discovery be made in a mining district comprised in class B. With such notice there shall be transmitted a declaration containing particulars of the time when and the place where such discovery was made and any further particulars prescribed by regulation.

Duty of prospector etc., on discovery of precious metals to report the same to the Mining Commissioner.

(2) If a prospector fails to comply with any provision of this section, or makes a declaration false in any material particular knowing the same to be false, he shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds; upon conviction of a prospector for such false declaration, the Minister may declare forfeited any rights granted in consequence of it.

18. The Minister may cause investigation to be made concerning the nature, extent, and results of prospecting, with a view to ascertaining if any discovery of precious metals, whether notified or not, has been made.

Investigation as to prospecting.

19. (1) When a discovery shall have been notified in accordance with section *seventeen*, in respect of any place, and the Minister is satisfied that it is, or having regard to all the circumstances, should be regarded as a genuine discovery and that there are reasonable grounds for believing that precious metals exist in payable quantities at such place, the Mining Commissioner shall give to the prospector a notice entitling him within a period, to be fixed by the Minister (not being less than thirty days), to peg at such place as follows:—

Rights and duties of discoverers.

(a) in the case of land described in sub-section 1 (a) of section *ten* an area of one claim to every sixty morgen ;

(b) in the case of land which is to be proclaimed within twelve months from the date of the notice aforesaid, an area of one claim to every sixty morgen of the land to be proclaimed ;

(c) in the case of land which is not to be proclaimed within such twelve months, an area of one claim to every sixty morgen of such land ;

but in no case an area of less size than *ten* nor more than fifty claims on private land and on Crown land an area of not less than twenty-five claims (where available) nor more than fifty claims.

Provided that if the discovery was made by prospecting or boring to a greater depth than one thousand feet, the Minister shall increase the size of the area by permitting the prospector to peg at the place aforesaid an area of one claim to every sixty morgen for every additional thousand feet of depth, but not exceeding fifty claims for every such additional thousand feet.

(2) If the prospector does not comply with terms of the said notice within the period fixed as aforesaid, he shall be deemed to have abandoned his rights under this section.

(3) Such area shall, as far as possible, be rectangular in shape, and in respect of the proportions of length to breadth along and across the reef shall be at the highest as two is to one.

(4) As soon as the prospector shall have complied with the terms of the said notice, he shall be entitled to have issued to him a certificate in respect of the area pegged by him.

(5) Such certificate shall entitle the holder to the exclusive right of prospecting and mining on the said area for a period of three years from the date of the said certificate, but if the prospecting and mining is not carried on to the satisfaction of the Mining Commissioner, license moneys calculated as provided in section *forty* shall thereupon be payable in respect of the area, and in any event shall become payable after the expiry of the said period of three years.

(6) As soon as the certificate is issued, the provisions of Chapter V shall apply to the said area, and as soon as license moneys become payable, the said area shall, for all the purposes of this Act and the regulations be deemed to be claims.

(7) The terms of the notice mentioned in sub-section (1) shall be published in the *Gazette* and in a newspaper circulating in the mining district, and thereupon all prospecting, except by the discoverer, shall cease within such distance from the place where the discovery was made as the Minister may determine.

### CHAPTER III.

#### RIGHTS OF OWNERS OF PRIVATE LAND.

##### A.—*Exploitation of Precious Metals under Mynpacht.*

20. (1) Whenever precious metals have been found on unproclaimed private land, the holder of the mineral rights shall, subject to the discoverer's rights (if any), have the right to select either

Selection of  
mynpacht by  
holders of  
mineral  
rights.



one or two areas called a mynpacht, which shall in the aggregate be not more than one-fifth of the extent of land to be proclaimed if notice of proclamation has been given, or, if, after request by such holder, the Governor shall refuse to proclaim the land, then in the aggregate one-fifth of the land over which the holder has the mineral rights; on obtaining, and as long as he holds a mynpacht-brief, he shall have the exclusive right of prospecting and mining for precious metals within the mynpacht.

(2) The proportion of the length of the mynpacht along the reef to its breadth across the reef shall be at the highest as two is to one, and it shall, as far as possible, be rectangular in shape.

(3) The said holder shall lodge at the office of the Mining Commissioner a diagram of the mynpacht so selected, together with a certificate from the Registrar of Deeds that he is the registered holder of the mineral rights over the land.

(4) If the said holder shall not have complied with the provisions of sub-section (3) within a period of three months after notice of intention to proclaim, he shall be deemed to have abandoned his right to the mynpacht.

(5) Ground selected as a mynpacht under this section, shall, upon proclamation, be deemed to be proclaimed land, but shall not be dealt with under section *thirty* save as is otherwise expressly provided in this Act

21. The following provisions shall apply to the issue and renewal of a mynpacht-brief:—

issue and  
renewal of  
mynpacht-  
briefs.

(a) Upon selection of his mynpacht, the person entitled thereto may obtain from the Mining Commissioner a mynpacht-brief, which shall be signed by the Minister and issued for a period of not less than five and not more than twenty years.

(b) The holder of a mynpacht-brief shall be entitled to renew the same, from time to time, for any such period aforesaid, subject to the provisions of the law for the time being in force. If he fails to make application for renewal of the mynpacht-brief, within six months of its expiry (notice of the expiry having been given to him by the Mining Commissioner as soon as possible thereafter), the land comprising the mynpacht may be dealt with in manner described in section *thirty*, and in the case of a mynpacht not on proclaimed land, may be proclaimed.

(c) Renewal of a mynpacht-brief shall be effected by endorsement thereon, signed by the Minister, and by or on behalf of the person in whose favour application for renewal is made.

(d) Save as is otherwise provided in this and the next succeeding section, no mynpacht-brief shall be renewed in any other name than that of the person in whose name it was last registered.

(e) If the holder of a mynpacht-brief be the lessee of the mineral rights within the area in respect of which it was issued, the period of the mynpacht-brief, or of its renewal, shall not exceed the unexpired period of the lease. On the expiry of the lease, the holder for the time being of the mineral rights shall be entitled to a mynpacht-brief for any such period as is mentioned in paragraph (a) of this section.

cancelled, and the land comprising the mynpacht may be dealt with in manner described in section *thirty*, and, in the case of a mynpacht not on proclaimed land, may be proclaimed.

(c) A mynpacht may be transferred, either wholly or in part, from one person to another, or hypothecated, subject to the provisions of the law for the time being governing registration of mining title, and subject also, in the case of a transfer, to the provisions of the Transfer Duty Proclamation 1902 or any amendment thereof; provided that where transfer is made of a portion of a mynpacht, a new mynpacht-brief shall be issued in respect of such portion for the unexpired period of the original mynpacht-brief, on deposit of a diagram and production of the original mynpacht-brief at the office of the Mining Commissioner.

(d) The holder of a mynpacht-brief may permit any person to dig for precious metals on his own behalf on the mynpacht on such terms and conditions as may be mutually agreed upon; provided that

- (1) such person shall be in possession of a prospecting or digger's license for a number of claims corresponding with the extent of ground on which he has permission to dig, such ground being deemed for all the purposes of this Act (save as to Chapter XI) and the regulations to be claims;
- (2) written notice of the permission shall be given by the holder of the mynpacht-brief to the Mining Commissioner;
- (3) nothing in this paragraph contained shall relieve the holder from the terms and conditions of his mynpacht-brief.

For the purposes of this paragraph any such person as is described in article *thirty-two* of Law No. 15 of 1898 shall be deemed to be the holder of a mynpacht-brief.

#### *B.—Owner's Reservations.*

23. (1) Before any private land is proclaimed there shall be reserved to the owner the free and uninterrupted use of

- (a) any homestead (*werf*) on the land to be so dealt with;
- (b) all buildings, cemeteries, and kraals situated outside any such homestead (*werf*);
- (c) all enclosed ground which has been under cultivation for two years prior to the date of the notice of intention to proclaim which is given to the owner under this Act, and the springs, wells, bore-holes and watercourses in the neighbourhood of such ground;
- (d) sufficient water for the owner's use for domestic purposes, for watering his stock, and for irrigating the ground mentioned in paragraph (c) of this sub-section, and if the owner is also the holder of the mineral rights, sufficient water for working his mynpacht.

(2) The quantity of water reserved under sub-section (1) shall, before the land is proclaimed and after the water has been gauged, be determined by the Mining Commissioner, subject to confirmation by the Minister. Thereafter the quantity of water

Reservation to owner of private land of homestead cultivated lands buildings etc.

so determined may be used by the owner for the purposes aforesaid, or disposed of by him. The remainder of the water, and the water not so used or disposed of, may be dealt with under the provisions of Chapter VIII. Lessees, servitude holders, and others entitled to water shall retain the right to the water so determined in so far as, at the time of proclamation, they are using it for the purposes mentioned in sub-section (1).

(3) After receiving the said notice of intention to proclaim, and before the expiry of three months from the date thereof or of such extended period as the Minister may grant, the owner shall submit to the Mining Commissioner a sketch plan showing clearly all portions of ground which he may desire to be reserved under sub-section (1) of this section.

The Mining Commissioner, at the expiry of such period or extended period (as the case may be), whether the owner has submitted a sketch plan or not, shall determine, subject to confirmation by the Minister, which portions of such ground shall be so reserved.

(4) After the portions of ground to be reserved have been determined as aforesaid, the owner shall lodge at the Office of the Mining Commissioner a diagram of such portions, and such diagram shall be therein filed; and thereupon the owner shall be entitled to obtain from the Mining Commissioner a certificate setting forth the extent and purposes of the reservations, and containing a reference to the said diagram. Such certificate shall be capable of registration in the same manner as a mynpacht-brief, and shall be indisputable.

(5) Ground reserved under this section shall be deemed to be proclaimed land, but shall not be dealt with under section *thirty* or otherwise than under the provisions of section *fifty-two*.

### *C.—Reservations in Native Locations.*

Special provisions applicable to native locations.

24. When land, being a native location, or portion of a native location, is proclaimed a Public Digging, the following provisions shall apply:—

(1) The chief and tribe occupying the location shall retain the right to graze their stock thereon in so far as such right does not interfere with prospecting and mining.

(2) All kraals, and such lands as were habitually under cultivation and irrigation for two years prior to the date of the notice of intention to proclaim, shall be reserved for the use of such chief and tribe, unless they consent to the reservation not being made.

(3) Sufficient water shall be reserved for the domestic purposes, and for watering the stock of such chief and tribe.

(4) If such location be Crown land there shall be granted to the chief and tribe as compensation for the land, of the use of which they have been deprived by the grant of discoverers' rights or by the location being proclaimed the use of an equal area of other land.

(5) If such location belong to ~~such~~ chief and tribe, any person who has become the holder of the mineral rights, may, in addition to any rights ~~which~~ he may obtain as a discoverer, select

one or two areas as a mynpacht of a size to be fixed by the Minister for Native Affairs in consultation with the Minister, but not exceeding in the aggregate one-fifth of the extent of the land proclaimed, or if the Governor shall refuse to proclaim the land, then not exceeding in the aggregate one-fifth of the land over which such mineral rights are held. The moneys or other consideration (if any) payable to the chief and tribe for the acquisition of such mineral rights, together with one-half the moneys derived from time to time from mining titles or other rights on the land, shall be paid to the Minister for Native Affairs, and shall be held by him in trust for the chief and tribe, and applied for such purposes as they may desire, subject to the approval of the Governor.

*General.—Beaconing of 'Mynpacht and Reservations.*

25. (1) Within seven days after any mynpacht<sup>or</sup> reservation mentioned in this Chapter has been finally determined, the Mining Commissioner shall give written notice to the person entitled to the mynpacht<sup>mint lease area</sup> or reservation (as the case may be) requiring him to construct thereon beacons and trenches in accordance with this section and with regulation. If he does not comply with such notice within three weeks after the date thereof, the Mining Commissioner shall cause the beacons and trenches to be constructed at the cost of such person.

Beaconing of mynpacht and reservation.

(2) The beacons shall be constructed at the angular points of the mynpacht<sup>mint lease area</sup> or reservation, and, except where natural boundaries exist, line beacons shall be constructed at clearly visible distances (not exceeding one thousand yards) along its sides: whenever it is possible, trenches shall be constructed so as to indicate the direction of the boundaries at each beacon.

(3) The beacons and trenches shall be maintained in repair to the satisfaction of the Mining Commissioner by the person for the time being entitled to the mynpacht<sup>mint lease area</sup> or reservation (as the case may be); and if he shall make default in complying with a notice in writing by the Mining Commissioner, calling upon him to put the beacons and trenches in repair within a specified time, the Mining Commissioner may effect the necessary repairs at the cost of such person.

#### CHAPTER IV.

#### PROCLAMATION OF PUBLIC DIGGINGS.

\*26. (1) Whenever the Governor is satisfied that there are reasonable grounds for believing that precious metals exist in payable quantities on unproclaimed land, he may proclaim such land a Public Digging after the discoverer's rights (if any) under this Act have been ascertained and secured, and subject, in the case of private land, to the provisions hereinafter contained.

Proclamation of Public Diggings.

(2) No land shall be proclaimed which is not necessary for the purposes of the Digging.

\* For proclamations, see Chronological Table.

(3) Notice of intention to proclaim any land under this section, shall be published in four consecutive weeks in the *Gazette* and in a newspaper circulating in the mining district, and shall further be posted outside the principal door of the office of the Mining Commissioner for a period of one month.

(4) In the proclamation there shall be stated the date on which it shall take effect (not being less than thirty days after the first publication thereof), and in respect of any portion of the Public Digging which is to be declared open to pegging, the proclamation shall describe such portion and state the hour at which pegging may be commenced thereon.

(5) The Minister shall cause notice to be given in the *Gazette*, and in a newspaper circulating in the Mining District, of the places at which and the date upon and after which licenses under section *thirty-two* may be obtained to peg claims in such portion.

Effects of  
and matters  
incidental to  
proclamation.

<sup>26. *See sec. 15 Act 36/24.*</sup>  
27. (1) After such proclamation, prospecting on the land proclaimed shall only be allowed under a mining title.

(2) Whenever by any such proclamation damage is caused to rights existing on or over the land proclaimed at the date of the notice of intention to proclaim, the person entitled to such rights shall be compensated by the holder of the mineral rights. The amount of compensation shall, in the absence of agreement be determined by arbitration.

Provisions  
and condi-  
tions relative  
to proclama-  
tion of private  
land.

28. (1) No private land shall be proclaimed a Public Digging without the written consent of the holder of the mineral rights unless

(a) such land has been declared open to prospecting for precious metals under this Act; or

(b) such holder has, by himself, or his servants, prospected on the land, or has at any time given his written consent to prospecting thereon; or

(c) the Minister has ascertained in manner provided by sub-section (2) that there are reasonable grounds for believing that precious metals exist in payable quantities on such land.

(2) If it be brought to the notice of the Minister that there are reasonable grounds for believing that precious metals exist in payable quantities on any unproclaimed private land on which prospecting is not permitted under sections *ten* or *eleven*, he may authorize the Government Mining Engineer to enter and make investigations thereon. The Government Mining Engineer shall thereupon, after consultation with the holder of the mineral rights, and subject to the provisions of section *sixteen*, carry on such prospecting on such land as will enable him to report whether there are such reasonable grounds as aforesaid. In carrying on such prospecting, the Government Mining Engineer shall conform to all regulations which are applicable to prospectors.

(3) The proclamation shall not take effect in the cases mentioned in paragraphs (a) and (b) of sub-section (1) until the expiry of four months from the date of a written notice given by the Minister to the holder of the mineral rights, as well as to the owner, and in the case mentioned in paragraph (c) of sub-section (1) until the expiry of twelve months from the date of a like notice. Such notice shall state the intention of the Governor to

proclaim the land, and shall call upon the holder of the mineral rights to select his ~~mine~~ <sup>mine</sup> in accordance with section *twenty*, and upon the owner to select the reservations to be made under section *twenty-three*.

29. No land shall be proclaimed a Public Digging until beacons in accordance with regulation have been erected at the angular points thereof as well as line beacons at clearly visible distances at the cost of the public revenue, and a diagram of the land has been lodged at the office of the Mining Commissioner and the Deeds Office; nor, if it be private land, until the beacons and trenches mentioned in section *twenty-five* have been constructed. If in the opinion of the Surveyor-General any existing diagram having reference to the land to be proclaimed, is not sufficiently accurate, a new survey may be made by the Surveyor-General of the ground in accordance with the existing beacons and after due publication and passing of the new diagram the old diagram shall be cancelled by him.

\*30. The Governor may deal with proclaimed land in any or all of the following ways:—

(a) He may declare the whole or any portion thereof open to the public for the pegging of claims in accordance with Chapter V;

(b) He may lease to any person the exclusive right to mine the precious metals on any portion of the Digging not held under mining title, subject to the provisions of sections *forty-six* and *forty-eight*;

(c) He may with the previous sanction of Parliament, establish a State Mine upon any portion of the Digging, subject to the provisions of sections *forty-nine* and *fifty*.

Nothing in this section contained shall be deemed to restrict pegging upon proclaimed land which was open to pegging on the day prior to the commencement of this Act or to authorize pegging upon proclaimed land in respect of which upon such day licenses to peg claims could not have been issued.

†31. (1) Any portion of a Public Digging which has been declared open to pegging either under this Act or Law No. 15 of 1898 or a prior law may be deproclaimed by the Governor, if the extent of ground held under digger's license is at the date of the notice mentioned in sub-section (3) less than one digger's claim to every twenty morgen of such portion, and, according to the certificate of the Government Mining Engineer, precious metals are not being found or likely to be found in payable quantities on such portion.

(2) Any portion of a Public Digging which has not been declared open to pegging may be deproclaimed by the Governor whenever the Minister, from the report of the Government Mining Engineer, is satisfied that precious metals are not being found or likely to be found in payable quantities on such portion.

(3) Notice of intention to deproclaim any portion of a Public Digging shall be published in four consecutive weeks in the *Gazette* and in a newspaper circulating in the mining district.

(4) The deproclamation of any portion of a Public Digging shall not affect any rights granted on such portion under this

Beaconing etc. of all land before proclamation.

Alternative methods of dealing with Public Diggings.

Deproclamation of Public Diggings.

\* For lapsed claims, etc., see Chronological Table.

† For deproclamations, etc., see Chronological Table.

Act or a prior law, and existing at the date of the notice of intention to deproclaim; provided that the owner may expropriate any such rights on payment of an amount, by way of compensation, to be fixed by mutual agreement, or in default of such agreement, to be determined by arbitration.

If, on or after the date of deproclamation, payment of license moneys due in respect of such rights be three months in arrear, such rights shall be cancelled by the Mining Commissioner and thereupon the ground shall no longer be portion of a Public Digging.

## CHAPTER V.

### PEGGING OF CLAIMS AND LICENSE MONEYS IN RESPECT THEREOF.

Pegging of claims under license.

§32. (1) Every white person of the age of sixteen years or upwards, may, on payment of license moneys in accordance with section *forty*, obtain from the Mining Commissioner a license called a "prospecting license" entitling the holder, during a period of one month, to peg in the manner prescribed by regulation upon such portion of a Public Digging as is open to pegging the number of claims authorized by the license but not exceeding fifty.

(2) It shall not be lawful to peg a claim unless the license holder or his representative is present with his license on the ground which he desires to peg, or in any place, where prospecting is forbidden by this Act, or which has been reserved or pointed out as reserved under this Act from pegging.

(3) No claim shall be pegged between sunset and sunrise, nor on Sunday or a day declared by law a public holiday.

(4) Any person contravening the provisions of sub-sections (2) or (3) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds.

Dimensions and shape of claims.

33. A claim shall be one hundred and fifty feet in breadth and four hundred feet in length; and, in the case of a reef claim, the breadth shall be taken along the strike of the reef and the length across the strike. Every claim shall, as far as possible, be pegged in a rectangular shape and where the nature of the ground will not permit of its being so pegged, it shall not exceed sixty thousand square feet.

Report of pegging to beacon inspector.

34. (1) Every person pegging a claim shall report such pegging to the Beacon Inspector concerned, within two days in mining districts comprised in class A, and within fourteen days in mining districts comprised in class B, and, within seven days thereafter, shall indicate the angular points of the claim by the beacons required by regulation.

(2) Every such person shall also, within one month from the date of pegging or before renewal of the license lodge at the office of the Mining Commissioner

† For pegging of claims under license, see Chronological Table.

South Africa, as follows:—

section  
t 35 of  
I. The following section is hereby inserted in the Precious  
and Base Metals Act, 1908 (Act No. 35 of 1908) of the Transvaal  
(hereinafter referred to as the principal Act) after section  
*thirty-one*:

“Proclama-  
tion of land  
to be  
reflected in  
deeds  
registry.  
31*bis*. (1) Whenever any land—  
(a) is proclaimed under section *twenty-six* or  
becomes land which is in terms of sub-section  
(5) of section *twenty-three* or section *twenty-six bis*  
deemed to be proclaimed land; or

(b) is deproclaimed under section *thirty-one*,  
the registrar of mining titles shall notify the regis-  
trar of deeds for the area in which the land con-  
cerned is situate, and the registrar of deeds shall  
free of charge and subject to the provisions of  
sub-section (3) make such entries on the appro-  
priate deeds and in the appropriate registers as  
may be necessary adequately to reflect that the  
land is or is deemed to be proclaimed land or has  
been deproclaimed, as the case may be.

(2) The holder of the title deed of the land con-  
cerned shall, within a period of thirty days after  
written demand has been made therefor by the  
Registrar of Mining Titles, produce such deed to  
such Registrar who shall forward it to the Registrar  
of Deeds so notified.

(3) If the holder of any such deed fails to comply  
with any such demand, or, if as a result of his  
whereabouts not being readily ascertainable, no  
such demand is made—

(a) the Registrar of Mining Titles shall notify the  
Registrar of Deeds concerned, who shall  
thereupon make the entries referred to in  
sub-section (1) on the duplicate deed filed in  
his office and in the appropriate registers;  
and

(b) the Registrar of Deeds concerned shall not  
register any further transaction relating to  
the land, until such entries on the title deed  
have been made by him, and shall impound  
such deed for the purpose of making such  
entries thereon whenever such deed may  
for any reason be lodged in his office: Pro-  
vided that the provisions of this paragraph  
shall not prevent the registration of any trans-  
fer or cession referred to in the proviso to  
sub-section (1) of section *fifty-six* of the Deeds  
Registries Act, 1937 (Act No. 47 of 1937).”



DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. Artikel *sewe* van die „Volksgezondheidswet”, 1919, word hierby gewysig deur die volgende sub-artikel na sub-artikel (4) in te voeg:

„(4) *bis*. Een persoonslichaam dat ingevolge sub-artikel (4) ingesteld is en verklaard is, een landelik-plaatselike autoriteit te zijn, is bevoegd om overeenkomstig regulaties door de Minister uitgevaardigd—

- (a) een schattingslijst op te stellen en belastingen te heffen op, en zodanige belastingen te innen van de eigenaars of okkupeerders van, vast eigendom binnen zijn rechtsgebied gelegen; en
- (b) fooien en belastingen op te leggen en te innen ten opzichte van diensten door hem verricht bij het uitvoeren van de plichten en werkzaamheden hem verleend bij of op hem overgaande krachtens deze Wet of een wijziging ervan.”

2. Sub-artikel (1) van artikel *sestien* van die „Volksgezondheidswet”, 1919, word hierby gewysig deur die volgende voorbehoudsbepaling na voorbehoudsbepaling (b) in te voeg:

„(b) *bis*. in 't geval van een plaatselike autoriteit aan dewelke bevoegdheden of plichten krachtens sub-artikel (3) van artikel *vijf* van die „Volksgezondheidswet, 1919, Wysigingswet”, 1927, overgedragen zijn of ingevolge een of ander wet geacht worden aldus overgedragen te zijn, de Minister een bedrag van hoogstens een duizend vijf honderd pond in een jaar terugbetalen kan, doch niet meer dan een derde van de uitgaven door zodanige plaatselike autoriteit ingevolge dit artikel gedaan;”.

3. Sub-artikel (3) van artikel *vijf* van die Volksgezondheidswet, 1919, Wysigingswet, 1927, word hierby deur die volgende sub-artikel vervang:

„(3) (a) Wanneer die Minister oortuig is dat dit wenslik is om bevoegdhede of pligte wat deur of ingevolge die Hoofwet of 'n wysiging daarvan aan 'n plaatselike outoriteit verleen of opgedra is, aan 'n ander plaatselike outoriteit oor te dra, kan hy, nadat hy die betrokke plaatselike outoriteite geraadpleeg het en met die toestemming van die Administrateur, sodanige pligte of bevoegdhede aan sodanige ander plaatselike outoriteit oordra deur 'n order gepubliseer in die *Staatskoerant* en in 'n nuusblad wat in die betrokke distrikte in omloop is; en die Minister kan so 'n order op die selfde wyse intrek of wysig.

(b) Indien, na die datum van 'n sodanige oordrag, 'n ander plaatselike outoriteit gestig word in die plek van

(a) a certificate of the Beacon Inspector concerned, that the ground has been pegged and beacons erected in accordance with this section ;

(b) a sketch plan, showing the situation of the claim or claims and such other particulars as are prescribed by regulation.

35. (1) The Mining Commissioner may, before or after the lodging of a sketch plan, require a diagram to be lodged, if, in his opinion, the same is necessary or expedient, provided that two months' notice be given to the license holder.

Power of Mining Commissioner to require diagram.

(2) A confirmed diagram shall be required by the Mining Commissioner when transfer of the claim is sought ; provided that, in a mining district comprised in class B, transfer may in the discretion of the Mining Commissioner be registered, though a sketch plan only has been lodged, upon production of a certificate of the Beacon Inspector concerned, that all regulations relative to pegs and beacons have been complied with.

36. Every holder of a claim shall maintain his beacons in proper repair and in accordance with regulation, and if the same be out of repair he shall put them in repair within a time to be specified by the Mining Commissioner in a written notice to such holder.

Maintenance of beacons.

37. If the holder of a claim fail to comply with any provision of section *thirty-four*, *thirty-five* or *thirty-six*, the claim shall lapse and be dealt with under Chapter XI ; provided that no licence shall be issued to such holder in respect of such claim until he has complied with all such provisions.

Lapsing of claim on failure to comply with provisions as to diagrams or beacons.

38. (1) If any person (hereinafter called the first pegger) shall have pegged on any piece of land a larger superficial area than he is authorized to peg by the terms of his license any other person (hereinafter called the second pegger) who is duly licensed may peg off within the pegs of the first pegger claims adjoining one another but so that such claims shall be taken along the whole length of one of the sides of such piece of land ; provided that—

Pegging of ground by other person where first pegger has pegged in excess of number of claims allowed by his license.

(a) the second pegger shall not peg in places that have been worked or in such manner as to interfere with the first pegger ;

(b) the second pegger shall within two days after such pegging give written notice thereof to the Mining Commissioner and to the first pegger ;

(c) the second pegger shall within twenty-one days transmit to the Mining Commissioner a diagram of such piece of land showing the position of the claims pegged by him and, so far as it may be defined by pegs or beacons, the position of the area pegged by the first pegger.

(2) The Mining Commissioner may thereupon award to the second pegger the claims pegged by him in accordance with this section, or if the piece of land shown to be in excess is insufficient to permit of claims of full size being marked off in manner aforesaid, the Mining Commissioner may award to and allow the second pegger, subject to the provision of sub-section (1) (a) of this

section, to locate within the pegs of the first pegger, such number of claims of full size as may be found to be in excess; provided that such excess claims shall adjoin one another on one of the sides of the said piece of land. An appeal shall lie within fourteen days from the decision of the Mining Commissioner to the Minister whose decision shall be final. The Mining Commissioner shall upon expiry of the licenses of the first and second peggers renew the same in accordance with the terms of any award or decision given under this sub-section.

(3) Any person being a second pegger who pegs ground within the claims of a first pegger knowing the same to be ground not open for pegging shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds.

(4) Any person who wilfully pegs an area more than ten per cent. in excess of the number of claims allowed by his license or any person who having pegged such excess shall not withdraw his pegs therefrom within five days after being required by the Beacon Inspector so to do shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds.

39. (1) A prospecting license shall entitle the holder to prospect and mine for precious metals on the claim or claims in respect of which it is held, and, subject to the provisions of this Act he shall be entitled, from time to time, for a period not exceeding three months to obtain a renewal of the license on payment of license moneys in accordance with section *forty*.

(2) The renewal of a prospecting license shall be refused by the Mining Commissioner

(a) if, on investigating a dispute as to pegging, he finds that any claim held under such license has been lawfully pegged by a person other than the applicant for renewal or is lawfully held;

(b) if he finds that any person, professing to act under such license, has pegged at a time or place forbidden by law or on ground lawfully reserved from pegging, or where pegging is not authorised by law.

(3) Save as is otherwise provided in this Act, the Mining Commissioner shall not refuse to renew a prospecting license when a diagram of the claims held thereunder has been lodged, except upon the order of a court of competent jurisdiction.

(4) Nothing in this or the last preceding section contained shall affect the right of any party to a dispute to obtain in a court of law any relief to which he may be entitled.

40. (1) Subject to the provisions of this section there shall be paid in advance to the Mining Commissioner in respect of every prospecting license (whether the claims held thereunder were pegged before or after the commencement of this Act) two shillings and sixpence per month, per claim, in the case of Crown land, and five shillings per month, per claim, in the case of private land.

(2) If at any time ground held under prospecting license (whether on Crown or private land) is not being adequately prospected, the Mining Commissioner may demand, upon renewal

Rights  
conferred by  
prospeoting  
license.

License  
moneys  
payable in  
respect of  
claims where  
pegged before  
or after  
commence-  
ment of th  
Act.

of the license, an increased rate of license moneys at fifteen shillings per month per claim; provided that the applicant for renewal may, if aggrieved by such demand, appeal within a period of thirty days to the Minister, who may allow or dismiss the appeal and whose decision shall be final. For the purposes of this subsection, prospecting upon any one claim with intent to prove the nature and value of precious metals on another claim, which is in direct relation or direct proximity to the first-mentioned claim, shall be deemed to be prospecting on such other claim.

(3) As soon as use is being made of machinery, wherever situate, for the crushing or treatment of ore obtained from a claim or a claim has been sufficiently developed to permit of the extraction of ore therefrom, the license holder shall, before he is entitled to win precious metals from any such claim, convert his prospecting license therefor into a license to be called a "digger's license" in respect of which there shall be paid in advance the sum of twenty shillings per month, whether the same be situate upon Crown or private land.

(4) A digger's license shall entitle the holder to dig for precious metals on any claim or claims in respect of which it is held, subject to the provisions of this Act, and, save as is in subsections (1) and (2) of this section otherwise provided, all the provisions of this Chapter relating to prospecting licenses shall *mutatis mutandis* apply to diggers' licenses.

41. Notwithstanding anything in section *forty* contained—

(1) when a license holder holds on his own behalf not more than fifteen claims and has been personally working the same for a period of six months since the license was issued or last renewed (as the case may be), the Mining Commissioner may, on renewing the license, remit so much of the license moneys as would accrue to the public revenue under this Act;

(2) when a claim is situate in an unhealthy locality, and the licence holder has been working it in a manner which the Mining Commissioner deems sufficient, the Mining Commissioner may grant exemption from payment of licence moneys for such period as, having regard to all the circumstances, he may think just. Every such exemption shall be subject to confirmation by the Minister. The Mining Commissioner, subject to review by the Minister, shall determine in each case whether a locality is healthy or unhealthy for the purposes of this section.

42. One half of the moneys received by the Mining Commissioner for the issue or renewal of prospecting and diggers' licences shall be paid to the owner when the claim is situate upon private land.

43. A prospecting or digger's licence may be transferred either wholly or in part in accordance with the provisions of the law for the time being in force governing registration of mining title and on payment of transfer duty in accordance with the Transfer Duty Proclamation 1902 or any amendment thereof. If a licence

Exemptions from payment of license moneys.

Share of license moneys payable to the owner of private land.

Transfer of license.

is transferred as to part only of a claim, such part shall, notwithstanding anything in section *thirty-three* contained, be deemed to be a claim.

Abandonment of claims.

44. (1) Any claim held under a prospecting or digger's licence may be abandoned, provided the holder thereof give written notice to the Mining Commissioner of his intention to abandon.

(2) Upon his giving such notice, he shall again be entitled to peg claims in accordance with the provisions of section *thirty-two* on ground open to pegging.

Abandoned claims to lapse to Crown.

45. The right to mine for precious metals on any claim so abandoned shall lapse to the Crown, and that claim may be dealt with in manner described in section *thirty*.

## CHAPTER VI.

### FURTHER RIGHTS TO MINE ON PUBLIC DIGGINGS.

Lease of right to mine precious metals on Public Diggings or portion thereof.

46. (1) Whenever the Governor shall have determined to exercise the power mentioned in sub-section (b) of section *thirty* he shall cause such portion to be divided into such number of claims as will, in the opinion of the Government Mining Engineer, be sufficient in extent to constitute a workable mining proposition. After a diagram has been made of such portion showing such areas, the Minister shall, by notice in the *Gazette* and in such newspapers as the Minister may consider advisable call for applications for the grant of a lease. Such notice shall set forth the period within which applications will be received, and the boundaries and description of the claims in respect of which such lease will be granted.

(2) The following conditions shall form part of every such lease:—

(a) The lessee shall provide within a specified time the capital required for the equipment of the mine to be worked under the lease and all further working capital necessary for the development of such mine.

(b) The lessee shall carry on mining to the satisfaction of the Minister, unless prevented by the influx or scarcity of water, serious accident, damage to the mine or machinery, disputes with workmen or by any other cause deemed adequate by the Minister.

(c) An amount to be agreed upon, being a percentage of the annual net produce obtained from the exercise of the right leased, shall be paid to the Treasurer, and for the purpose of ascertaining such net produce, the provisions of the Profits Tax (Gold Mines) Proclamation 1902 or any amendment thereof shall *mutatis mutandis* apply.

(d) No tax shall be payable under the said Proclamation or any amendment thereof on the annual net produce obtained in respect of the right leased.

(e) A rent shall be paid by the lessee of so much as would have been payable under sub-sections (1) and (3) of section *forty* if the claims had been held by the lessee under licence in accordance with the provisions of Chapter V.

(f) If the lessee fails to provide the capital or suspends the carrying on of the mining required by the lease without the consent of the Minister, except as in paragraph (b) is provided, or fails to carry out any decision given in the arbitration mentioned in paragraph (h), the Governor may determine the lease.

(g) Within six months after the determination of the lease [whether under paragraph (f) or otherwise], the lessee or any other person entitled to plant, machinery, or equipment of the mine shall remove the same, but shall not remove or destroy any material used for supporting underground workings; and, if such plant, machinery, or equipment is not removed within such period, the Governor may, unless he allows an extension of time for removal cause the same to be sold after public tender or by public auction, notice of the same having been given in the *Gazette* and a newspaper circulating in the mining district and to the registered mortgagee (if any) of the lease. The proceeds of the sale shall, after deducting the costs thereof and any moneys which under this section remain due to the Crown under the lease, be paid to the lessee.

(h) All differences, which may arise between the lessee and the Governor, in respect of the carrying out of the terms and conditions of the lease, or of their respective interests therein, shall be determined by arbitration.

47. Whenever claims upon any Crown land have been worked and abandoned or the Governor is satisfied that in a particular locality insufficient advantages are to be derived from the working of claims in accordance with Chapter V upon such land, he may grant the same as a mynpacht for not less than one nor more than five years, subject to the following provisions:—

Grant of ground as mynpacht where insufficient advantages are derived from the working of claims.

(1) Application for the grant shall be made in writing to the Mining Commissioner, and notice thereof shall be posted by him at his office, and by the applicant at each angular point of such ground in manner prescribed by regulation, for a period of one month. Such notice shall contain a description of such ground and of its extent and situation.

(2) Any person shall have the right to lodge written objection to such application within twenty-one days after the date of such notice.

(3) The application and the objections thereto (if any) shall be considered by the Mining Commissioner at the expiry of thirty days from the date of such notice, and, as soon thereafter as possible, he shall transmit to the Minister the application and objections (if any) together with his report and recommendations thereon.

(4) The area granted shall not exceed fifteen hundred feet by fifteen hundred feet.

(5) A yearly rental shall be payable in advance in respect of the ground at the rate of ten shillings per morgen per annum.

(6) Prospecting and digging shall be carried on by the grantee to the satisfaction of the Mining Commissioner.

(7) Diagrams of the ground shall be lodged with the Mining Commissioner within a period to be fixed by him.

is transferred as to part only of a claim, such part shall, notwithstanding anything in section *thirty-three* contained, be deemed to be a claim.

Abandonment of claims.

44. (1) Any claim held under a prospecting or digger's licence may be abandoned, provided the holder thereof give written notice to the Mining Commissioner of his intention to abandon.

(2) Upon his giving such notice, he shall again be entitled to peg claims in accordance with the provisions of section *thirty-two* on ground open to pegging.

Abandoned claims to lapse to Crown.

45. The right to mine for precious metals on any claim so abandoned shall lapse to the Crown, and that claim may be dealt with in manner described in section *thirty*.

## CHAPTER VI.

### FURTHER RIGHTS TO MINE ON PUBLIC DIGGINGS.

Lease of right to mine precious metals on Public Diggings or portion thereof.

46. (1) Whenever the Governor shall have determined to exercise the power mentioned in sub-section (b) of section *thirty* he shall cause such portion to be divided into such number of claims as will, in the opinion of the Government Mining Engineer, be sufficient in extent to constitute a workable mining proposition. After a diagram has been made of such portion showing such areas, the Minister shall, by notice in the *Gazette* and in such newspapers as the Minister may consider advisable call for applications for the grant of a lease. Such notice shall set forth the period within which applications will be received, and the boundaries and description of the claims in respect of which such lease will be granted.

(2) The following conditions shall form part of every such lease :—

(a) The lessee shall provide within a specified time the capital required for the equipment of the mine to be worked under the lease and all further working capital necessary for the development of such mine.

(b) The lessee shall carry on mining to the satisfaction of the Minister, unless prevented by the influx or scarcity of water, serious accident, damage to the mine or machinery, disputes with workmen or by any other cause deemed adequate by the Minister.

(c) An amount to be agreed upon, being a percentage of the annual net produce obtained from the exercise of the right leased, shall be paid to the Treasurer, and for the purpose of ascertaining such net produce, the provisions of the Profits Tax (Gold Mines) Proclamation 1902 or any amendment thereof shall *mutatis mutandis* apply.

(d) No tax shall be payable under the said Proclamation or any amendment thereof on the annual net produce obtained in respect of the right leased.

(e) A rent shall be paid by the lessee of so much as would have been payable under sub-sections (1) and (3) of section *four* if the claims had been held by the lessee under licence in accordance with the provisions of Chapter V.

(f) If the lessee fails to provide the capital or suspends the carrying on of the mining required by the lease without the consent of the Minister, except as in paragraph (b) is provided, or fails to carry out any decision given in the arbitration mentioned in paragraph (h), the Governor may determine the lease.

(g) Within six months after the determination of the lease [whether under paragraph (f) or otherwise], the lessee or any other person entitled to plant, machinery, or equipment of the mine shall remove the same, but shall not remove or destroy any material used for supporting underground workings; and, if such plant, machinery, or equipment is not removed within such period, the Governor may, unless he allows an extension of time for removal cause the same to be sold after public tender or by public auction, notice of the same having been given in the *Gazette* and a newspaper circulating in the mining district and to the registered mortgagee (if any) of the lease. The proceeds of the sale shall, after deducting the costs thereof and any moneys which under this section remain due to the Crown under the lease, be paid to the lessee.

(h) All differences, which may arise between the lessee and the Governor, in respect of the carrying out of the terms and conditions of the lease, or of their respective interests therein, shall be determined by arbitration.

47. Whenever claims upon any Crown land have been worked and abandoned or the Governor is satisfied that in a particular locality insufficient advantages are to be derived from the working of claims in accordance with Chapter V upon such land, he may grant the same as a mynpacht for not less than one nor more than five years, subject to the following provisions:—

Grant of ground as mynpacht where insufficient advantages are derived from the working of claims.

(1) Application for the grant shall be made in writing to the Mining Commissioner, and notice thereof shall be posted by him at his office, and by the applicant at each angular point of such ground in manner prescribed by regulation, for a period of one month. Such notice shall contain a description of such ground and of its extent and situation.

(2) Any person shall have the right to lodge written objection to such application within twenty-one days after the date of such notice.

(3) The application and the objections thereto (if any) shall be considered by the Mining Commissioner at the expiry of thirty days from the date of such notice, and, as soon thereafter as possible, he shall transmit to the Minister the application and objections (if any) together with his report and recommendations thereon.

(4) The area granted shall not exceed fifteen hundred feet by fifteen hundred feet.

(5) A yearly rental shall be payable in advance in respect of the ground at the rate of ten shillings per morgen per annum.

(6) Prospecting and digging shall be carried on by the grantee to the satisfaction of the Mining Commissioner.

(7) Diagrams of the ground shall be lodged with the Mining Commissioner within a period to be fixed by him.



(8) If the grantee make default in complying with any of the provisions of this section (thirty days' notice having been given to him by the Mining Commissioner indicating the default) the Governor may, if the default be not made good, cancel the grant and thereupon the ground may be dealt with under any of the provisions of section *thirty* or under this section.

Transfer or mortgage of lease described in section *forty-six*.

*see S 21, Act 36734 -*

48. The rights granted under sections *forty-six* or *forty-seven* may be transferred or mortgaged subject in the case of a lease under section *forty-six* to the approval of the Governor. Every transfer or mortgage shall be effected in accordance with the law for the time being governing registration of mining title, and, subject as to transfer, to the provisions of the Transfer Duty Proclamation 1902 or any amendment thereof.

State Mine.

49. (1) Whenever Parliament shall have sanctioned the establishment of a State Mine, the land selected for the same shall, if not already surveyed into claims and demarcated, be surveyed into claims and demarcated by beacons, and a diagram lodged at the office of the Mining Commissioner.

(2) A State Mine shall be developed and worked in accordance with instructions given, from time to time, by the Minister acting upon the advice of the Government Mining Engineer.

(3) Any funds appropriated by Parliament for the purpose shall be deemed to be the capital thereof, and accounts shall be kept showing the capital and other expenditure on and the net produce of the Mine.

(4) The methods of calculating any such expenditure and produce shall be as prescribed by regulation.

(5) The accounts kept as aforesaid, together with all reports of the Government Mining Engineer upon the Mine, shall be laid upon the tables of both Houses of Parliament not less than one month after the commencement of its ordinary session.

Provisions applicable to working of State Mine.

50. The following provisions shall be applicable to the working of a State Mine :—

(1) All mining operations thereon shall be conducted in accordance with the Mines Works and Machinery Regulations Ordinance 1903, or any amendment thereof, or any regulation made thereunder.

(2) The Minister may enter into such contracts as he may think fit for the acquisition and erection of plant, machinery, and equipment, for the appointment of managers and overseers, for the engagement of workmen, and their remuneration, and for any other matter or thing conducive or incidental to the development of the Mine and the winning of precious metals therefrom.

Moneys payable to owners in respect of rights to mine mentioned in sections *forty-six* and *forty-nine*.

51. (1) One half of the rent received from the lessee in accordance with sub-section (2) (e) of section *forty-six* shall, when the rights conferred by the lease are over private land, be paid over by the Treasurer to the owner.

(2) When a State Mine has been established on private land, the Treasurer shall pay to the owner one half of so much as would have been payable to him under sub-sections (1) and (3) of section *forty* if such land were held under licence in accordance with the provisions of Chapter V.

52. (1) The right to mine for precious metals underneath  
 (a) any place which immediately prior to the commencement of this Act was subject to the provisions of article *one hundred and eighteen* of Law No. 15 of 1898 ;  
 (b) any ground reserved under section *twenty-three* ;  
 (c) any place mentioned in sub-section (1) of section *sixteen* ;

Right to mine under  
*bewaar-*  
*plaatsen*  
*machines*  
*stands*  
*etc.*

shall be and is hereby vested in the Crown, which may, by its officers, at all times enter upon the surface of any such ground, and sink shafts and do all acts and things necessary for the purpose of exercising such right.

(2) The Governor may, on terms which he may deem most advantageous, lease any such right or where the ground in respect of which under-mining rights are exercisable is insufficient in extent to constitute, in the opinion of the Government Mining Engineer a workable proposition may dispose of the right in any other manner and any person to whom such right is leased or otherwise disposed of shall, subject to the terms of the lease or contract disposing of such right have all the powers vested in the Crown under sub-section (1) : the provisions of sections *forty-six* and *forty-eight* shall, so far as they are applicable, apply in respect of any lease under this section.

(3) Every such lease shall contain such provisions as will adequately protect persons lawfully using the surface under which the right to mine is granted, from damage caused by the exercise of such right, whether from subsidence of the soil or otherwise, and compensation shall be paid by the lessee or other person to whom such right has been disposed of to every person who suffers such damage, the amount thereof in the absence of agreement being determined by arbitration.

53. The net sum accruing to the Treasurer from the rights to mine mentioned in the last preceding section shall be appropriated to the redemption of any loan heretofore or hereafter raised by the Governor under the authority of statute, provided that, in the case of a ~~loss~~ <sup>loss</sup> of a right to mine underneath any place mentioned in sub-section (1) (a) of the last preceding section, or other disposal thereof, the total moneys accruing to the Crown under the ~~lease~~ <sup>lease</sup> or other contract disposing of such right shall be paid by the Treasurer into a special account and set aside by him pending the direction of Parliament.

Application of net sums accruing from rights to mine mentioned in section *fifty-two*.

## CHAPTER VII.

### BEZITRECHT.

54. (1) Any person in possession of ground held under mining title, or of a water-right, machinery-site, or other right necessary or incidental to the development of a Public Digging, may at any time apply in writing to the Mining Commissioner for a certificate of bezitrecht in respect thereof.

Applications for and conditions of grant of certificate of bezitrecht.

(2) The application shall describe the situation of the ground in respect of which such right is held, and the nature of such right, and shall be accompanied by the full name and address of the applicant, and if any other person is registered as the holder of

such right, the full name and address of such registered holder. A confirmed diagram of the right in respect of which application is made shall be also transmitted therewith.

(3) Notice of such application, specifying the particulars furnished in accordance with sub-section (2) of this section, shall be published in three consecutive weeks in the *Gazette* and in a newspaper circulating in the mining district, and shall require objections to the issue of the certificate of bezitrecht to be lodged at the office of the Mining Commissioner within three months from the date of the first of such publications.

(4) A copy of such notice shall forthwith be served upon

(a) the owner of the land on which such right is situate ;

(b) the registered holders of mining titles adjoining such right ;

(c) the last previous holder of such right at his last known address.

Notice of any objections and the grounds thereof shall be served on the applicant, and on the Mining Commissioner, prior to the expiry of the said period of three months.

(5) If, upon the expiry of such period, no notice of objection has been served, the Mining Commissioner shall issue a certificate of bezitrecht to the person entitled thereto in respect of the right for which the application was made, and if notice of objection has been served, the Mining Commissioner shall appoint a date for hearing the application ; notice of such date shall be given to the applicant and any objector.

(6) At such hearing the Mining Commissioner shall record the evidence given before him, and his decision thereon shall be in writing and filed for record.

(7) If the applicant or any objector is dissatisfied with the decision of the Mining Commissioner, he may, within three months from the date of such decision, institute an action in a superior court having jurisdiction, and if, after expiry of the three months, no such action has been instituted, such decision shall be deemed final, and a certificate of bezitrecht shall, in accordance therewith, be issued or refused. In the event of such action being instituted, the Mining Commissioner shall issue a certificate of bezitrecht in accordance with the judgment of the court thereon.

(8) A certificate of bezitrecht shall include every right shown by the diagram transmitted with the application, whether such right was obtained under permission, contract, or licence under this Act or any prior law, and such certificate may be transferred, either wholly or in part, by the holder thereof ; such certificate shall be conclusive evidence that the person to whom it was issued was, at the date of its issue, the lawful holder of the rights included therein, and shall further be indisputable and unassailable unless the same has been obtained by fraud on the part of the possessor thereof.

55. Whenever the Mining Commissioner after the provisions of section *fifty-four* have been complied with is satisfied that an applicant for a certificate of bezitrecht is the legal holder of the right in respect of which the application is made, he may grant such certificate, though the title to such right is defective by reason

Power of Mining Commissioner to grant certificate of bezitrecht notwithstanding certain defects.

(a) that transfer of the right to the applicant has not been passed owing to the death or absence from this Colony of the person in whose name it is registered, or owing to other good reasons ; or

(b) of a defect in the competency or authority of any person who may have professed to pass transfer to the applicant ; or

(c) of the original acquisition of such right through false or defective powers of attorney, or otherwise ; provided the applicant shall not have been a party to the making of the false power, and is a bona fide possessor of the right ;

provided that, before the issue of a certificate in the circumstances in this section described, the Mining Commissioner shall be satisfied by evidence, that the applicant has been for at least twelve successive months in peaceful possession and enjoyment of and entitled to the right in respect of which his application is made.

## CHAPTER VIII.

### WATER-RIGHTS AND USE OF WATER.

56. (1) No person shall, upon any Public Digging, have any proprietary right in the water running in any river, stream, water-course, or water-furrow, by reason of any mining title, licence or certificate granted to him under this Act or any prior law.

No proprietary right to water conferred by mining title etc. under this Act.

(2) Save as is otherwise provided in this Act no person shall, upon any Public Digging, be entitled to the use of any such water, unless he shall have obtained a water-right in manner prescribed by this Chapter or under a prior law or unless he shall, with the written approval of the Mining Commissioner, have acquired from the holder of a water-right permission to use water derived therefrom for purposes incidental to mining. Any such approval may be withheld or withdrawn or given subject to conditions.

57. (1) Every holder of a mining title shall be entitled to obtain a water-right in accordance with regulation, and on such conditions as the Minister may, from time to time, determine ; provided that no water-right shall be granted which is not required for the purpose of working the ground held under such title or for purposes incidental to such working, unless such grant be expressly sanctioned by the Governor.

Who may obtain water-rights.

(2) No dues or license moneys shall be payable in respect of a water-right so obtained, and, in respect of water-rights obtained prior to the commencement of this Act, no dues or license moneys shall continue to be payable after such commencement.

(3) Notwithstanding anything in this section contained the Governor may, by agreement, grant special water-rights on Crown land and also for the public benefit on proclaimed private land.

58. (1) For a water-right written application shall be made to the Mining Commissioner, accompanied by a sketch plan, by such particulars as are prescribed by regulation, and by such further particulars as the Mining Commissioner may, in each case, specially require.

Application for water-rights.

(2) The provisions of section *fifty-four* shall *mutatis mutandis* apply in respect of the publication of notices of application, the service of notices of objection, and the fixing of the date of hearing ; provided that one month shall be substituted for the period of three months in such section mentioned.

(3) Where an application for a water-right is made in a mining district comprised in class B, notice of the application, signed by the Mining Commissioner, shall be posted for one month outside his office, outside the office of the Beacon Inspector concerned, and upon the ground in respect of which the application is made. Notice in writing of the application shall also be served upon every holder of ground held under mining title adjoining the ground in respect of which application is made and on any other person who, in the opinion of the Mining Commissioner, might be affected by the grant thereof.

(4) If more than one application be made for the same water-right, the Mining Commissioner shall treat any application lodged at a date later than the first application as an objection to such application ; provided that notice of the later application is served upon the first applicant in manner provided for service of notices of objections.

(5) At the hearing of the application the Mining Commissioner shall consider the evidence for or against it, and thereupon shall grant or refuse it, and, in the case of more than one application, shall decide which applicant (if any) is entitled to a water-right. An appeal shall lie from the decision of the Mining Commissioner to the Minister, who may confirm, reverse, or vary the decision. Every such appeal shall be prosecuted within fourteen days of the decision, and the order of the Minister thereon shall be final.

Confirmation of grants of water-rights by the Minister necessary.

59. No grant of a water-right shall be valid and effectual until confirmed by the Minister, nor until a diagram thereof has been lodged at the office of the Mining Commissioner, unless the grant is included in a certificate of *bezitrecht* ; and, for the purpose of the confirmation, a copy of the original application, the sketch plan aforesaid, and the report of the Mining Commissioner as to the desirability of confirmation and as to the validity and weight of the objections (if any) shall be transmitted by the Mining Commissioner to the Minister provided that in a mining district comprised in class B such grant may in the discretion of the Mining Commissioner be made although a sketch plan only has been lodged.

Beaconing off of water-rights.

60. The structure of beacons defining water-rights, and the manner in which they shall be erected, shall be as prescribed by regulation.

Transfer and removal of water-rights.

61. (1) A water-right, whether granted before or after the commencement of this Act, may be transferred by the registered holder thereof to another person without a transfer of the mining title to which it is attached, provided that the transferee is the

holder of a right which would entitle him to the grant of a water-right, and the water-right to be transferred is required by the transferee for the purpose of working the ground held by him under mining title.

(2) The holder of a water-right attached to a certain specific mining title may have the same attached to another such title belonging to him.

(3) Every such transfer shall be registered in accordance with the law for the time being governing registration of mining title.

62. The water-right granted in respect of a mining title before or after the commencement of this Act, shall lapse whenever such title lapses, unless the holder thereof is the holder of other such title, and within one month after the date of the lapsing of the one title, applies to the Mining Commissioner to have such water-right attached to such other title. Such application shall be made and dealt with in manner and form as prescribed by section *fifty-eight*.

Lapsing of water-rights.

63. Any water-right in existence at the commencement of this Act which is not attached to a mining title shall lapse at the expiry of one year thereafter, unless within such period, application is made to attach such water-right to a mining title.

Lapsing of existing unattached water-rights.

The provisions of section *fifty-eight* shall apply to such application.

64. (1) If the Mining Commissioner is of opinion that no sufficient use or an improper use is being made of a water-right whether granted before or after the commencement of this Act, he may serve a notice on the registered holder thereof, calling upon him to show cause why the water-right should not be cancelled; the Mining Commissioner shall fix a date and place for the hearing of the matter, such date being not less than three months after service of the notice.

Cancellation of water-rights for improper use.

(2) The Mining Commissioner shall hear the evidence of any complainant and of the registered holder aforesaid, and shall keep a record of all evidence, which, together with his report thereon, he shall transmit to the Minister as soon as may be. The Minister may, on consideration of the evidence and report, declare the water-right cancelled; provided that the declaration of cancellation may, within one month thereafter, be brought in review before the Supreme Court by the said registered holder.

(3) No water-right cancelled under this section may be pegged as a claim or the right to mine thereon otherwise disposed of but it shall be reserved for the purposes of a water-right.

65. Every person who makes a water furrow traversing a road or footpath open to the public shall construct such bridge or passage thereover as will render it safe; in default of compliance with this section such person shall, in addition to any liability to pay damage, be guilty of an offence and liable on conviction to a fine not exceeding ten pounds.

Duty to construct bridges over water furrows traversing roads and footpaths.

Regulations  
as to use of  
water.

\*66. The Minister may frame such regulations (not inconsistent with the provisions of this Chapter) as he may deem fair and reasonable

(a) for preventing the disturbing or fouling of rivers, streams, water courses, or water furrows ;

(b) for the proper distribution and prevention of waste of water on Public Diggings among persons prospecting or mining for precious metals and for the grant of temporary rights to use water, regard being had to the rights of owners, lessees, or other lawful occupiers of land ;

and by such regulations penalties may be imposed for the breach thereof.

## CHAPTER IX.

### SURFACE RIGHTS ON GROUND HELD UNDER MINING TITLE AND USE OF OTHER PROCLAIMED LAND.

Right of  
disposal of  
surface of  
ground held  
under mining  
title reserved  
to the Crown.

67. The rights conferred by a mining title, whether the same has been acquired under this Act or a prior law, shall not include the right of disposal over the surface of the ground held under such title which right of disposal is reserved to the Crown for the purposes of this Act or any other law.

Permission to  
use for certain  
purposes  
surface of  
ground held  
under mining  
title.

†68. (1) Save as is otherwise specially provided in this Act, the surface of ground held under mining title shall not without the written permission of the Mining Commissioner, be used otherwise than for mining. Such permission shall only be granted for purposes of mining, or purposes incidental thereto, and application for such permission shall be made in writing, stating the particular purpose for which the use of such surface is desired. A dwelling, to be used by the holder of such ground while mining thereon or by the persons employed by the holder in mining, shall be deemed one of the purposes incidental to mining.

(2) With every such application there shall be transmitted a plan showing the area of ground which it is desired so to use. The Mining Commissioner may require written notice to be served on any person who may be affected by the grant of such application, and such notice shall specify the nature of the application and the particulars aforesaid.

(3) When the application is for the use of the surface of ground held under mining title by another person, the Mining Commissioner shall, unless the applicant and such person otherwise agree in writing, require the applicant to serve written notice on such person specifying the site applied for and particulars as to the use for which the ground is required. If such notice is required to be served, the provisions of sub-sections (3) and (4) of section *seventy-four* shall *mutatis mutandis* apply.

\* For regulations *re* temporary water-rights, see Govt. Notice No. 12 of 1909 (Gazette, 2/1/09), 958/11, 1352/11

† See, however, Act No. 35 of 1909, sec. 2.

2. Section *sixty-nine* of the principal Act is hereby amended—

(a) by the insertion in sub-section (1) after the words “public purpose” of the words “(including any activity by the railway administration in which that administration may lawfully engage)”; and

(b) by the addition at the end thereof of the following sub-section :

“(4) If the use of any ground is granted to the railway administration under sub-section (1), the railway administration shall be liable to pay compensation to the registered owner and to any person whose rights are infringed thereby, and the amount of the compensation shall be determined as if the ground had been expropriated under paragraph (a) of section *three* of the Railways and Harbours Regulation, Control and Management Act, 1916 (Act No. 22 of 1916).”.



Sec 69(1)

See *New Independent - Inc. v. Ltd.*  
*vs. Trustees for the Diocese of Durban*  
*Minister of Govt. (1968) A.O. 91*

Sec 70. *La Rose vs. Moore*  
(1945) T.P. 0-80

Sec 71. *See Flynn Ltd. vs. Mining Comm*  
*7 Pilgrims Rest (1941) T.P. 0-438*

(4) The Mining Commissioner may grant any such application with or without modifications, or may refuse the same; provided that an appeal shall lie to the Minister either at the instance of the applicant or of any person affected by the grant.

(5) The Mining Commissioner may order the removal of any structure erected on ground held under mining title unless such permission has been obtained, and if it be not removed within a time to be specified by the Mining Commissioner, he may cause the same to be removed at the cost of the holder of such title.

68 *in re see the act 36/24*  
69. (1) The Governor may use or permit the use of ground held under mining title for the erection of public buildings, schools, and places of worship, for the construction of roads, for burial grounds, locations for coloured persons, for sanitary purposes or any public purpose, or for any purpose conducive to the promotion of health or recreation provided that such use is not, in the opinion of the Government Mining Engineer, likely to interfere with mining or purposes incidental to mining.

Use of ground held under mining title for public and certain other purposes.

(2) Any ground to be so used shall be selected by the Mining Commissioner, after consultation with the owner and the holder of the mining title, and his selection shall be subject to confirmation by the Minister.

(3) When deemed necessary by the Mining Commissioner, any ground so selected shall be demarcated by beacons, and a diagram thereof lodged at the office of the Mining Commissioner by or on behalf of the department, public body, or person to whom the use of such ground has been granted.

70. (1) No person shall fence ground held under mining title, unless he shall first have obtained the written permission of the Mining Commissioner; provided that

Prohibition against fencing of ground held under mining title except by permission and grounds on which permission granted.

(a) no such permission shall be granted for the fencing of a larger area than is necessary to protect any works or other mine property on the ground in respect of which application is made, or to safeguard the same from damage, destruction, or interference in a time of industrial dispute, or to ensure the safety of the public;

(b) ~~no such permission shall be deemed effectual unless and until the grant thereof has been confirmed by the Minister.~~

(2) The Mining Commissioner may order the removal of any fence erected without such permission, and if it be not removed within the time fixed by his order, he may cause it to be removed at the cost of the holder of the mining title to such ground.

71. The Governor may use or permit the use of proclaimed land not held under mining title (hereinafter referred to as open proclaimed land) for any purpose mentioned in section *sixty-nine* and may permit the use of such land for the erection of workmen's dwellings and the land to be so used shall, after consultation with the owner, be selected and reserved by the Mining Commissioner subject to confirmation by the Minister. The provisions of sub-section ~~(2)~~ of section *sixty-nine* shall apply to the land so selected.

Use of open proclaimed land for public and certain other purposes.

Permission to use proclaimed land two years after proclamation for agriculture etc.

72. The Mining Commissioner may, subject to confirmation by the Minister, permit the use of open proclaimed land for gardens, agriculture, and the planting of trees, orchards, and vineyards; provided that

(a) the permission shall not be granted unless such land has been proclaimed for two years, and within such period no precious metals have been discovered thereon in payable quantities;

(b) the permission shall not be granted in the case of private land, except upon request of the owner, and upon terms and conditions to which he may agree.

(2) Any such permission shall, if the Mining Commissioner so determine, include the right to erect buildings and structures to be exclusively used for purposes incidental to such use.

(3) Whenever permission has been granted to use open proclaimed land for purposes in this section mentioned, it shall not be used for any other purpose unless the Governor under the last preceding section shall use or permit its use for purposes mentioned in section *sixty-nine*.

(4) If at any time thereafter it shall appear that precious metals exist in payable quantities on any portion of such land the Mining Commissioner shall allow prospecting and mining on such portion, subject to the provisions of this Act, and may, if he think fit, cancel the permission granted under subsection (1); provided that compensation shall be paid by the person carrying on prospecting or mining for any damage caused to the gardens, agricultural products, or trees belonging to the holder of such permission, and such compensation shall, in the absence of agreement, be determined by arbitration.

Machinery sites.

73. (1) For the purpose of erecting machinery to develop and work ground held under mining title, the holder of such title shall have the right to acquire on any proclaimed land the use of one or more sites, called "machinery sites," each one hundred and fifty feet square;

(2) Written application accompanied by a sketch plan of the ground desired for a machinery site shall be made to the Mining Commissioner, who, if more sites than one are applied for, may determine the number to be granted having regard to the reasonable requirements of the applicant.

(3) When the application is for a site on the ground held under mining title by another person, the Mining Commissioner may require the applicant to serve written notice on such person specifying the site applied for and particulars as to the machinery proposed to be erected upon it, and, after hearing the applicant and such person, the Mining Commissioner may grant or refuse an application in respect of such site.

(4) Every site in respect of which an application has been granted shall be demarcated by beacons and a diagram of it lodged at the office of the Mining Commissioner.

(5) If a site granted is not used by the holder thereof within one year thereafter, or within such extended period as the Minister may allow, the Mining Commissioner may cancel the grant, and if the site is used for any purpose other than for machinery, the

holder shall be guilty of an offence and liable on conviction to a fine not exceeding five pounds for every day on which it is so used, and on such conviction the Mining Commissioner shall cancel the grant.

(6) A machine stand granted under Law No. 15 of 1898 or any prior law and held at the commencement of this Act as such, shall be deemed to be a machinery site for the purposes of this section.

74. (1) Notwithstanding anything in this Chapter contained, the Mining Commissioner may grant permission to any person making written application, to construct and use a building or other erection or an aqueduct, water-course, power-line, pipeline, bridge, road, railway-siding, mechanical-haulage, and aerial-tramway, or other like work on or over any proclaimed land; provided that, if any such work would be situate upon or traverse ground held under mining title by a person other than the applicant, no such permission shall be deemed effectual unless and until the grant thereof has been confirmed by the Minister.

Grant of permission to construct railway sidings power lines etc., on and over any proclaimed land.

(2) With such application there shall be transmitted to the Mining Commissioner a plan showing the proposed work, and if any such work would be situate upon or traverse ground held under mining title by a person other than the applicant, notice of the application shall be published, in three consecutive weeks, in the *Gazette* and in a newspaper circulating in the mining district, and such notice shall further be served upon every holder of such title.

(3) After the expiry of one month from the date of the first publication of such notice in the *Gazette*, the Mining Commissioner shall hear the applicant and any objectors to such application, subject to the provisions of sub-section (4).

(4) No person shall be heard as an objector unless, at least seven days before the hearing of the application, he shall have lodged particulars in writing of his objection at the office of the Mining Commissioner and served such particulars upon the applicant at the address stated in the application.

(5) The Mining Commissioner, in granting such permission, may impose such limitations, terms, and conditions as may appear to him necessary to protect the holders of ground upon which such work is situate, or which it traverses, from being injuriously affected by such work.

(6) The applicant or any such objector may, within ten days from the date of any decision of the Mining Commissioner under this section, appeal from any such decision to the Minister, who may confirm, reverse, or vary the same as to him may seem fit.

(7) Nothing in this section contained shall be deemed to deprive any person injuriously affected by the carrying out or carrying on of any such work, of any right he may have at law, to recover damages from the person to whom such permission has been granted.

75. (1) On any proclaimed land, brick-making, quarrying, lime-burning, and the digging for sand or gravel may be permitted by the Mining Commissioner in accordance with regulation on the following conditions:—

Brickmaking quarrying etc., on proclaimed land.

(a) In the case of open proclaimed land, with the written consent of the owner ;

(b) in the case of ground held under mining title, by the holder of such title for any purpose incidental to his own mining operations on such ground, provided that the written consent of the owner has been obtained.

(2) A fee of five shillings per month shall be payable in advance to the Mining Commissioner for every such permission ; and one half of such fee shall be paid over to the owner.

(3) Notwithstanding anything in sub-section (1) contained, any person who at the commencement of this Act is lawfully using ground held under mining title for brick-making, quarrying, lime-burning, or the digging of sand or gravel, may continue so to use such ground on the same terms and conditions as if this Act had not passed.

76. (1) Every person, who at the commencement of this Act has the use of the surface of any proclaimed land, whether held under mining title or not, and is unable to produce a written permission issued under a prior law to use such surface, shall, within a period of six months after the commencement of this Act or within such further period as the Minister may in each case determine, make application to him for permission to continue such use.

(2) If, within fourteen days after the expiry of any such period, such application be not made, or having been made has been refused, and any works, buildings, structures, or fences erected, or material stored on such land be not removed and such user discontinued, the Mining Commissioner may cause all such works, buildings, structures, fences, or material to be removed at the cost of such person aforesaid.

(3) The provisions of section sixty-eight shall *mutatis mutandis* apply to every such application.

(4) The Minister may in his discretion prescribe that a rental for such use be payable to the Mining Commissioner by the said person and fix such rental; and, if the land so used be private land, one half the rent received shall be paid over by the Mining Commissioner to the owner.

## CHAPTER X.

### STANDS OUTSIDE TOWNSHIPS.

Stands granted under Law No. 15 of 1898 or a prior law.

\*77. (1) Save as is otherwise provided in this section and in Chapter XI all the rights and obligations attaching at the commencement of this Act to a stand outside a township and acquired under Law No. 15 of 1898 or a prior law shall remain in force as if this Act had not passed and of the license moneys received by the Mining Commissioner the same proportion shall, if such is upon private land be paid over to the owner as was paid in respect of such stand before the commencement of this Act.

\* See Act No. 13 of 1910, sec. 2.

Method of validating unauthorized use of proclaimed land existing at commencement of Act.

(2) The Mining Commissioner may upon application enlarge the size of any such stand under the following circumstances :—

(a) If it is so situated that compliance with the sanitary requirements of any law or municipal regulation is impracticable or difficult ; or

(b) if no sufficient access to it can be obtained from a public road ; or

(c) if buildings erected upon it in good faith extend beyond its boundaries and the application for enlargement be made by the standholder within six months from the commencement of this Act ;

provided that no enlargement shall exceed fifty per cent. of the original size of the stand.

(3) Fourteen days' notice of the application shall be given to the holder of mining title (if the stand be situate on ground held thereunder) and to all adjacent standholders, and opportunity afforded to each of them to be heard in objection to the enlargement.

(4) An enlargement which would interfere with the rights of other persons shall not be permitted.

(5) If, in the circumstances described in sub-section (2) (c) of this section, application for enlargement be not made within the period prescribed, the Mining Commissioner may order the removal of buildings which extend beyond the boundaries of the stand, and if they are not removed within a time fixed by the Mining Commissioner, he may cause them to be removed at the cost of the stand holder.

(6) If such application be granted, a diagram of the stand as enlarged shall be lodged with the Mining Commissioner before the license is renewed.

78 (7) Any white person who desires to erect a dwelling or place of business on open proclaimed land may make written application to the Mining Commissioner for one or more stands on such land, submitting with the application a sketch plan, clearly indicating the site required. The Mining Commissioner may in his discretion grant or refuse the application. *du grantij.* Grant of stands on open proclaimed land.

(8) (1) Any white person who, or an incorporated company which, on any proclaimed land (whether open or held under mining title), desires to carry on works, necessary or incidental to the mining industry, Grant of industrial stands.

(a) for the generation of light, heat and power ; or

(b) for chemical works and the treatment of ores and by-products, *in accordance with*

may make written application to the Mining Commissioner for a stand called "an industrial stand" submitting therewith a sketch plan clearly indicating the site required.

(2) One month's notice of the application shall be given by the Mining Commissioner to the holder of the mining title, if the site required be on ground held thereunder, and to the owner of the land, if it be on private land, and opportunity

\* See Act No. 13 of 1910, sec. 2.

afforded to each of them to lodge and be heard as objectors. The grant or refusal of the application shall be subject to confirmation by the Minister.

(3) An industrial stand shall be not less than one hundred feet square, and no trade or business other than in sub-section (1) is described shall be permitted thereon.

(4) A supply of light, heat, or power for purposes other than mining or incidental to mining shall not be permitted from works on an industrial stand without the consent of the local authority having jurisdiction in the area of supply.

(5) A stand mentioned in Ordinance No. 23 of 1906 shall be deemed to be an industrial stand, and all the provisions of this Chapter which relate to industrial stands shall apply to it.

Stand licenses  
and issue and  
renewal  
thereof.

~~79. (1) When a stand mentioned in section seventy-eight or an industrial stand has been acquired, the holder shall obtain a license therefor from the Mining Commissioner, which may be renewed monthly, quarterly, or annually at the option of the holder; and license moneys at a monthly rate prescribed by regulation shall be paid in advance by the holder on the issue and renewal of the license. One-half of the license moneys received shall, when the stand is upon private land, be paid to the owner.~~  
80. (1) When a stand mentioned in section ~~seventy-eight~~ or an industrial stand has been acquired, the holder shall obtain a license therefor from the Mining Commissioner, which may be renewed monthly, quarterly, or annually at the option of the holder; and license moneys at a monthly rate prescribed by regulation shall be paid in advance by the holder on the issue and renewal of the license. One-half of the license moneys received shall, when the stand is upon private land, be paid to the owner.

(2) Such license shall be transferable in accordance with the law for the time being governing registration of mining title.

Beacons and  
diagrams.

81. (1) Every stand if enlarged under section ~~seventy-seven~~, every stand mentioned in section ~~seventy-eight~~ and every industrial stand shall be beacons in accordance with regulation and no stand license shall be issued until proper beacons are erected, or renewed unless beacons are properly maintained.

(2) A diagram of the ground which any such stand covers shall be lodged with the Mining Commissioner before a stand license is obtained.

Trading on  
ground held  
under mining  
title forbidden  
with certain  
exceptions.

~~82. Repealed by Act No. 13, 1910, section three (8).~~  
81 bis - Sec 34, Act 36/34.

Constitution  
of Board to  
select trading  
stands, etc.

83. ~~Repealed by Act No. 13, 1910, section three (8).~~

Selection of  
trading stands  
by the Board  
and  
restrictions  
on selection.

84. ~~Repealed by Act No. 13, 1910, section three (8).~~

Beaconing of  
sites selected  
as trading  
stands and  
registration of  
same in the  
name of the  
Board.

85. ~~Repealed by Act No. 13, 1910, section three (8).~~

86. *Repealed by Act No. 13, 1910, section three (8).*

Publication of list of trading stands for which certificates will be granted.

87. *Repealed by Act No. 13, 1910, section three (8).*

Applications for certificates for trading stands, objections to, and grant or refusal of the same.

88. (1) Upon application to the Board every such certificate, and every certificate issued by the Board constituted under Ordinance No. 35 of 1905 and in force at the commencement of this Act, may in the discretion of the Board be renewed in the manner and subject to the conditions described in the last preceding section, unless the holder of the mining title concerned shall satisfy the Board (its decision being subject to confirmation by the Minister) that the stand is required for mining purposes or purposes incidental to mining; provided that such holder of mining title shall give to the holder of the certificate six months' notice in writing that he intends to oppose its renewal for such reasons; provided further that in every such case the Board may renew the certificate in respect of another trading stand not required for such purposes but as near as possible to the stand so required.

Renewal of certificate.

(2) In the event of a renewal of a certificate being refused by the Board in respect of a stand so required, the Mining Commissioner shall cancel such stand.

89. Upon application to the Board every certificate referred to in the last preceding section may be transferred in the same manner and subject to the same conditions as apply to its renewal, provided that an application for a transfer shall not be necessary if the holder has died or become insolvent, and

Transfer of certificate.

(a) in the case of the death of the holder, his widow (if any) or executor, or if there be no executor, any *curator bonis* lawfully appointed or other person approved by the chairman of the Board; or

(b) in the case of the insolvency of the holder, the trustee of his insolvent estate may carry on the business, either personally or by an agent approved in writing by the chairman of the Board, until the next meeting or for such time as it may determine at its next meeting.

90. The Board may attach to the grant, renewal or transfer of a certificate one or more of the following conditions, that is to say:—

Conditions of grants renewals or transfers of certificates.

(a) That the holder shall personally reside on the trading stand, or personally manage the business carried on thereon.

(b) That the holder shall commence to carry on business within a fixed time, and shall continue to do so for the period of the certificate.



(c) That the holder shall not sub-let the stand without the authority of the Board certified by the transfer of the certificate in manner aforesaid.

(d) That the holder shall take over from any previous holder any buildings erected on the trading stand on such terms as the Board may determine.

(e) That the holder shall erect such buildings, or execute such repairs to existing buildings on the trading stand, as the Board may prescribe.

(f) Any special conditions not inconsistent with the provisions of this Chapter or with regulation.

Cancellation and suspension of certificates.

91. (1) The Board may at any time cancel or suspend a certificate during its currency, if satisfied, on the complaint of any person, that the holder

(a) has carried on a business on the trading stand other than that for which the certificate was granted; or

(b) has contravened any conditions attached to his certificate or to any trading license held by him in respect of the stand; or

(c) has traded on his stand without such trading license as is required by law or municipal regulation;

provided that the Board shall cancel a certificate, if the holder during the previous twelve months has been convicted of an offence for which he was sentenced without the option of a fine to a term of imprisonment of three months or more, unless he has received a free pardon for such offence.

(2) Every trading license issued by a Receiver of Revenue or municipal council in respect of a particular trading stand shall lapse whenever the Board, under the powers of this section, cancels a certificate in respect of such stand.

(3) As soon as a certificate has been cancelled or in any other manner expires, the Board shall take all steps to eject from the trading stand the person who held the certificate and all other persons who are in occupation of such stand.

Returns to Mining Commissioner by the Board.

92. The Board shall furnish to the Mining Commissioner, when required, particulars as to the certificates granted by it and the trading stands in respect of which they are held, together with particulars of cancellations or transfers that have taken place since the previous return.

Rent and license moneys.

93. (1) For the occupation of trading stands such rent shall be payable to the Treasurer by the holders of certificates as is prescribed by regulation.

(2) The Board shall pay to the Treasurer for every trading stand held by it license moneys at a monthly rate prescribed by regulation; in the case of stands on Crown land the license moneys shall be retained by the Treasurer, but in the case of stands on private land one-half shall be retained by the Treasurer and one-half paid by him to the owner of such land.

Special offences in relation to holders of certificates.

94. (1) Any person, whose certificate having been cancelled by the Board, shall fail to vacate the stand and remove therefrom all movable property belonging to him within a time fixed by the Board, shall be guilty of an offence and liable on conviction to imprisonment, without the option of a fine, for a period not exceeding six months.

(2) Any person who fails to disclose truthfully the names of any partners in a business carried on under the authority of a certificate, or who enters into a partnership in such business without obtaining from the Board its approval of the members of the partnership, or who, not being the holder of a certificate, agrees with the holder of a certificate to bring customers to him, shall be guilty of an offence and liable on conviction, to the penalties mentioned in sub-section (1).

95. Any person who brings undue pressure upon any ~~coloured~~ person to purchase goods solely from one particular holder of a trading license shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds, or to imprisonment, without the option of a fine, for a period not exceeding six months.

Penalty for inducing coloured person to buy from particular license holder

96. Any person who on any proclaimed land, except as provided in this Chapter, shall carry on any trade or business shall be guilty of an offence and liable

Penalties for carrying on business on any proclaimed land except upon a stand.

(a) in the case of a first conviction to a fine not exceeding ten pounds; and

(b) in the case of a second or subsequent conviction to a fine not exceeding fifty pounds and to a further fine not exceeding ten pounds for every day on which after the first conviction the offence is continued, or to imprisonment, without the option of a fine, for a period not exceeding six months.

97. Any person who

(a) carries on mining; or

(b) is the director or officer of a company which carries on mining; or

(c) is an employer of labour on behalf of a person or company which carries on mining;

and is at the same time interested, directly or indirectly, in a business

Penalty on persons carrying on mining being interested in stores, etc., on their own mining property.

(i) the premises of which are on the ground on which such mining is carried on; and

(ii) for which a general dealer's license or a license under municipal regulation is required,

shall be guilty of an offence and liable on conviction to the same penalties as are prescribed for a contravention of the last preceding section.

*Repealed 1.1.27*  
*See New Sec.*

98. Any person described in the last preceding section who

(a) pays any portion of the salary or wages earned by and payable to a person employed on a mine otherwise than in current coin of the Colony; or

Penalty for paying wages other than in current coin.

(b) becomes surety for the debt of a person employed on a mine due to the keeper of a business mentioned in the last preceding section

*New Sec.*  
*See Oct.*

shall be guilty of an offence and liable

(i) in case of a first conviction to a fine not exceeding one hundred pounds or to imprisonment without the option of a fine for a period not exceeding six months;

(ii) in case of a second or subsequent conviction to a fine not exceeding two hundred and fifty pounds or to imprisonment without the option of a fine for a period not exceeding one year.

## CHAPTER XI.

## LAPSING OF RIGHTS.

Procedure to be followed in cases of non-renewal of licenses for stands other than specially registered stands.

99. Whenever after the commencement of this Act the licence moneys in respect of any stand outside a township and not described in section *one hundred and two* are in arrear, such stand shall lapse, and shall be dealt with as follows :—

(1) During a period of three months after the date up to which licence moneys have been paid, the person who was, at such date, the licence holder of such stand shall be entitled to obtain a new licence in respect thereof, by paying the amount of the arrears due up to date, together with an additional sum equal to one-fourth of such amount, save as in sub-section (2) of this section is provided.

(2) If such new licence be obtained within fourteen days after the date up to which licence moneys have been paid, no such additional sum shall be payable.

(3) On the expiry of such period of three months the Minister shall cause the right to a licence in respect of the lapsed stand to be advertised for sale by public auction, by notice in the *Gazette* and in a newspaper circulating in the mining district, published fourteen days at least prior to the date fixed for the sale. If, at any time prior to such date, the person mentioned in sub-section (1) shall make application for a new licence as aforesaid, and tender payment of the amount due as licence moneys up to date of tender, together with an additional sum equal to one-fourth of such amount, as mentioned in sub-section (1), and the costs incurred in connection with the intended sale, no sale shall take place, but a licence shall be issued for the lapsed stand to the applicant. In default of such application prior to the date fixed for the sale, the same shall be carried out.

(4) Out of the proceeds of every such sale the amount due as licence moneys up to the date of sale together with the additional sum of one-fourth mentioned in sub-section (1) and the costs incurred in connection with any such sale, shall first be paid, and the balance (if any) shall be paid over to the person who was the licence holder of the stand, and if the stand, having been offered for sale as aforesaid is not sold, it may be disposed of in any manner.

Procedure to be followed in case of non-renewal of licenses for claims other than specially registered claims etc.

\*100. The provisions of the last preceding section shall apply whenever the licence moneys for a claim not described in section *one hundred and two* are in arrear, save that, on the expiry of the period of three months in the last preceding section mentioned, all the rights in such claim of the person who is in arrear with the licence moneys shall lapse to the Crown, and the Governor may deal with the ground over which such rights have been held in any of the ways provided by section *thirty*.

\* For Govt. Notices under this section, see Chronological Table.

101. Claims and stands belonging to the estate of a deceased person, or to an estate placed under sequestration, or to a company placed in liquidation, shall not lapse unless and until the executor, trustee, or liquidator (as the case may be) shall have failed to comply with the provisions of section *ninety-nine* or *one hundred* (as the case may be) for thirty days after his appointment, or, if confirmation of his appointment is required by law, after such confirmation.

102. The provisions of sections *ninety-nine* and *one hundred* shall not apply to

- (a) any claim or stand specially registered;
- (b) any claim in respect of which a certificate of *bezitrecht* has been granted;

but the following provisions shall apply in lieu thereof:—

(1) When payment of licence moneys in respect of any such claim or stand is six months in arrear, the Mining Commissioner shall immediately serve notice on the registered holder demanding payment of such moneys, and shall publish a copy of such notice in the *Gazette* and a newspaper circulating in the mining district.

(2) At the date of the publication mentioned in subsection (1) a copy of such notice shall also be served immediately upon the registered holder of any mortgage bond over such claim or stand.

(3) In the case of a stand, if payment of all such arrears of licence moneys and the costs of publishing the copy of the notice be not made within three months after the publication, a date shall be fixed for the sale by public auction of such stand, and notice of such sale shall be advertised in the *Gazette* and a newspaper circulating in the mining district fourteen days at least prior to such date. If prior to such date the arrears of licence moneys up to date be not paid by the person in default, together with the additional sums and costs hereinafter mentioned, such sale shall take place. Out of the proceeds of sale the amount of all arrear licence moneys up to the date of sale and an additional sum equal to one-fourth of such amount together with the costs of sale and of publication of all such notices shall first be paid, and after payment of the amount of any registered mortgage bond unsatisfied and the interest due thereunder the balance shall be paid over to the person who was the licence holder of the stand, and if the stand having been offered for sale as aforesaid is not sold, it may be disposed of in any manner.

(4) In the case of a claim, if payment of all arrears of licence moneys up to date and a fine calculated at one-fourth of such amount together with the costs of publication of the notice be not made within three months after the publication, all rights in such claim of the person who is in arrear with the licence moneys shall lapse to the Crown and the Governor may deal with the ground over which such rights have been held in any of the ways provided by section *thirty*.

Special provisions as to lapsing of rights belonging to estate of deceased person or insolvent.

Procedure to be followed if licence moneys on specially registered claims and stands in arrear.

Privileges to volunteers on active service and other persons when under arms as to renewal of licences.

103. Notwithstanding anything in this Chapter contained, any person who

- (a) has been called out on active or military service under the Volunteer Corps Ordinance 1904 or any amendment thereof, or under a law in force in any Colony or territory in South Africa for the preservation of peace and order; or
- (b) has served under arms in response to any request by the Governor for the preservation of peace and order in this Colony;

shall be entitled to a period of thirty days' grace after the cessation of such service within which to renew any licence mentioned in this Chapter; provided that notice in writing shall have been given to the Mining Commissioner of the date of commencement and cessation of such service. On the renewal of such licence, no licence moneys shall be payable in respect of the period of such service.

## CHAPTER XII.

### DEALING IN UNWROUGHT PRECIOUS METALS.

104. In this Chapter;

“banker” shall include any manager, cashier, or other officer of a joint stock bank acting in such capacity;

“licence” shall mean a licence described in sections *one hundred and six* and *one hundred and seven*;

“licensed dealer” shall mean the holder of a licence as in this section defined;

“unwrought precious metal” shall include precious metal in any form whatever which though smelted, is not ~~manufactured or made up into~~ any article of commerce, and shall include amalgam, slimes, slags, black sands, ~~lots~~, battery chips, sweeping of reduction works and scrapings and bye-products of unrefined precious metal.

Definition of terms used in this Chapter.

Penalties for unlawful dealing in unwrought precious metals.

105. (1) No person shall buy, sell, deal in, receive, or dispose of by way of barter, pledge, or otherwise, either as principal or agent, any unwrought precious metal, unless

(a) he is the holder of a licence;

(b) he is a banker within the Colony;

(c) such unwrought precious metal has been won by him or his servant acting on his behalf from ground held by him under mining title, or on which he is lawfully entitled to prospect;

(d) such unwrought precious metal does not exceed twenty pennyweights in quantity, and, not being a person described in paragraph (a) (b) or (c), he has obtained a certificate from the Mining Commissioner authorizing him to be in possession or dispose of such quantity of unwrought precious metal.

(2) Any person acting in contravention of sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds, or to imprisonment without the option of a fine for a period not exceeding two years, or to both such fine and imprisonment, and, in case of a second or subsequent conviction, to a fine not exceeding one thousand pounds or to imprisonment without the option of a fine for a period not exceeding five years or to both such fine and imprisonment.

(3) Any person who shall buy unwrought precious metal without having satisfied himself that the vendor thereof is lawfully entitled to sell the same, shall be guilty of an offence and liable on conviction to the penalties mentioned in sub-section (2) of this section.

106. (1) Any person who shall have in his possession any unwrought precious metal, unless

Unlawful possession of unwrought precious metal.

(a) he is a person excepted under sub-section (1) of the last preceding section; or

(b) he is in possession of such metal in fulfilment of a contract of service with any such excepted person; or

(c) he is able to satisfy the court that he came into possession of such metal in a lawful manner;

shall be guilty of an offence and liable on conviction to the penalties mentioned in the last preceding section.

\* (2) The Governor may from time to time make alter or rescind regulations for the licensing of persons authorized to buy or to sell or to deal in or to otherwise receive and dispose of unwrought precious metals and for the better prevention of thefts or unlawful possession of unwrought precious metal, and may by such regulations prescribe different classes of licences for the various methods of dealing in different kinds of unwrought precious metals and may further prescribe penalties for the breach of any such regulations not exceeding the penalties mentioned in the last preceding section. The provisions of section one hundred and thirty-two shall apply to all such regulations.

107. (1) The Receiver of Revenue in any district may issue to any white person, who produces and lodges with such officer a certificate of fitness under the hand of the resident magistrate or assistant resident magistrate of such district, a licence for such district. Such magistrate shall not issue such licence except after enquiry from the Commissioner of Police and the Mining Commissioner.

Issue of licences to deal in unwrought precious metals.

(2) Every licence shall be in the form prescribed by regulation, and shall be issued for one year or a quarter of a year.

(3) There shall be paid to the Receiver of Revenue in respect of every licence the sum of twenty-five pounds if it be issued for a year, or eight pounds if it be issued for a quarter of a year.

(4) Every licence, if yearly, shall, whenever issued, expire on the thirty-first day of December of the year in which

\* For regulations, see Proc. (Admn.) No. 2 of 1909.

it was issued, and every quarterly licence shall expire on the last day of each quarter ending the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December.

(5) Any licence issued under article *one hundred and forty-one* of Law No. 15 of 1898 and in force at the commencement of this Act, shall, until it has expired in accordance with the said law be deemed to be a licence issued under this section.

Penalties on licensed dealers contravening conditions of licence.

108. Any licensed dealer, who shall deal in unwrought precious metal in a manner which is not specially authorized by the terms of his licence, shall be guilty of an offence, and liable on conviction to the penalties mentioned in section *one hundred and five*, and, in addition, to forfeit his licence and any right of renewal thereof for such time as the court, which passes sentence, may direct.

Prohibition of dealing in unwrought precious metal between sunset and sunrise and on Sundays etc.

109. Any person who shall buy, sell, deal in, or receive by way of barter, pledge, or otherwise, either as principal or agent, any unwrought precious metal between sunset and sunrise, or on a Sunday or a day declared by law a public holiday, or at any other place than his usual place of business, shall be guilty of an offence and liable on conviction to the penalties mentioned in section *one hundred and five*, and, in addition, in the case of a licensed dealer, to forfeit his licence and any right of renewal of the same for such time as the court, which passes sentence, may direct.

Burden of proof of being licensed.

110. Whenever in any proceedings against any person under this Chapter, it is necessary to ascertain whether he is a licensed dealer or is otherwise authorized to buy, sell, deal in, receive, or dispose of unwrought precious metal, the burden of proving that he was such licensed dealer or was otherwise authorized as aforesaid, shall lie upon such person.

Register of transactions to be kept by persons dealing in unwrought precious metal.

111. (1) Every licensed dealer, and every banker and every person who receives or deposits for safekeeping or despatch unwrought precious metal, shall keep a true and correct register in the English or Dutch language, in the form prescribed by regulation, of all unwrought precious metal deposited with, or received, or despatched, or otherwise disposed of by him, and shall enter or cause to be entered in such register within twenty-four hours after every such transaction

(a) the date of the transaction;

(b) the names of the parties to the transaction;

(c) the nature and weight of the material and the weight of the precious metal, the subject of the transaction;

(d) the price (if any) received or paid.

(2) Any person required by this section to keep a register, who shall fail to keep the same in manner prescribed, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, or to imprisonment, without the option of a fine, for a period not exceeding three months.

(3) Every person required by this section to keep a register, shall, on or before the fifteenth day of each month,

transmit or deliver to the Inspector of Mines of the mining district, a true copy of such register in duplicate for the last preceding month, together with a solemn declaration of the correctness thereof, and shall also produce and exhibit such register to the senior officer of police having authority in such district whenever required in writing by such officer, and in default of compliance with any requirement of this sub-section he shall be guilty of an offence, and liable on conviction to the penalties mentioned in sub-section (2) of this section.

112. Any person who shall deliver or cause to be delivered unwrought precious metal in payment of any debt due from him or another person, or in consideration of any service rendered or to be rendered to him or to another person, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds, or to imprisonment, without the option of a fine, for a period not exceeding three months or to both such fine and imprisonment.

Prohibition of payment of debts or wages in unwrought precious metal.

113. Any person who shall receive from a coloured person any unwrought precious metal by way of purchase, barter, pledge, or gift, shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand pounds, or to imprisonment, without the option of a fine, for a period not exceeding five years or to both such fine and imprisonment.

Penalty for receiving unwrought precious metal from coloured persons.

114. Any coloured person who shall sell, barter, pledge, or otherwise dispose of any unwrought precious metal, or who shall obtain by purchase, barter, or pledge, or shall be in possession of any unwrought precious metal, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years; provided that nothing in this section contained shall apply to a coloured person handling unwrought precious metal in fulfilment of any contract of service with a person excepted under sub-section (1) of section *one hundred and five*.

Penalty on coloured persons trading dealing in or being in possession of unwrought precious metal.

115. On the conviction of any person for an offence mentioned in this Chapter, it shall be in the discretion of the court which passes sentence to order any unwrought precious metal in respect of which such conviction has been obtained, to be delivered up to the owner thereof (if it shall be satisfied of the ownership) or if not so satisfied to be forfeited to the Crown.

Disposal of unwrought precious metals by the court in case of conviction.

116. Any person who shall maliciously place any unwrought precious metal in the possession of or on the premises of any other person, with intent that such other person shall be convicted under any provision of this Chapter, shall be guilty of an offence and shall be liable on conviction to the penalties mentioned in section *one hundred and five*.

Penalty for maliciously placing unwrought precious metal on premises with intent.

117. Any person who shall be an accessory, either before or after the fact, to an offence described in this Chapter shall be liable to be charged and dealt with in all respects as if he were a principal offender, and any person who shall attempt to commit any such offence shall be deemed to have actually

Accessories to and persons attempting to contravene this Chapter.



committed the same, and shall be liable to the penalties herein provided for the particular offence which he has attempted to commit.

118. No person who has been convicted of an offence described in this Chapter shall be entitled to obtain from a Receiver of Revenue or Municipal Council a licence to trade, or carry on any business in a proclaimed field; and any such licence shall *ipso facto* lapse on conviction of the holder for any such offence.

### PART III.

#### BASE METALS.

\*119. Where base metals exist, or are supposed to exist, on Crown land the provisions of Part II of this Act relating to Crown land (other than Chapter XII) shall *mutatis mutandis* apply; provided that

(1) the holder of a prospecting permit for precious metals may, under the authority of such permit prospect for base metals also, without obtaining a further permission to prospect for base metals;

(2) the maximum number of claims which the Minister may authorize under a certificate issued to a discoverer of base metals in accordance with section *nineteen* or which may be pegged in accordance with section *thirty-two*, shall be one hundred;

(3) the licence moneys payable in respect of base metal claims shall be calculated at the rate of one penny per claim per month for the first year and sixpence per claim per month for any year after the first year;

(4) the holder of a prospecting or digger's licence for precious metals may saving rights existing at any time prospect and mine on his claim for base metals on payment by him to the Mining Commissioner of the amount payable for a licence mentioned in sub-section (3) of this section in addition to the amount paid or payable by him under section *forty*. On payment of such additional amount, the Mining Commissioner shall endorse the licence "available for base metals";

(5) the holder of base metal claims may, saving rights existing at any time, prospect and mine for precious metals on such claims (not exceeding fifty) on payment of the amount payable under section *forty* in addition to the amount paid or payable by him under sub-section (3) of this section. On payment of such additional amount the Mining Commissioner shall endorse the licence "available for precious metals" to an extent not exceeding fifty claims;

(6) notwithstanding the extension to a prospecting or digger's licence of the privileges obtainable under sub-sections (4) and (5) of this section, such licence shall be deemed for all purposes one licence;

\* For Govt. Notices, etc., under this section, see Chronological Table.

Disabilities entailed by conviction under this Chapter.

Application of Part II of Act to base metals on Crown land subject to certain provisos.

(7) any prospecting or digger's licence available for precious metals, whether or not it be also available for base metals, may be converted into a licence available exclusively for base metals, saving rights existing at any time subject to the conditions following (that is to say)—

- (a) written application for such conversion shall be made to the Mining Commissioner;
- (b) the Mining Commissioner shall be satisfied, after obtaining the report of the Government Mining Engineer, that there is no reasonable prospect of precious metals being found in payable quantities on the claims, and further, that there is a reasonable certainty of base metals being found thereon in payable quantities.

A new licence, available exclusively for base metals, shall be issued by the Mining Commissioner in respect of the claims whenever such application is granted;

(8) whenever, in the case of claims held exclusively for base metals, it shall appear from the report of the Government Mining Engineer that

- (a) there is reasonable certainty that precious metals will be found on such claims in payable quantities, and further, that there is no reasonable prospect of base metals being found in payable quantities on such claims; or

- (b) that, in the winning of base metals by the licence holder or any other person on such claims, precious metals have been ~~found~~<sup>found</sup> in combination with such base metals and ~~exceeding in value the cost of producing both such precious and base metals~~<sup>in value</sup>.

the Mining Commissioner may order the licence holder, either to produce his licence for endorsement in manner provided by and subject to the payments mentioned in sub-section (5) of this section, or to convert such licence into a licence exclusively available for precious metals, and the licence holder shall be entitled to choose one of such alternatives. If the licence holder shall fail to make such choice or shall otherwise fail to comply with the terms of such order within a period fixed by the Mining Commissioner, no such licence shall be renewed at the expiry of the period for which it was issued, and the claims held thereunder shall lapse and may be dealt with in any of the ways provided by section *thirty*.

120. ~~Whenever in the course of mining base metals on private land precious metals are won in combination with such base metals exceeding in value the cost of producing both such precious and base metals the Governor may by proclamation in the Gazette apply the provisions of Part II of this Act to such private land so far as they are applicable to private land; provided that nothing in this section contained shall be construed as depriving the owner of any rights in respect of base metals which can be worked separately from~~

Circumstances under which Part II of Act may be applied to private land.

the precious metals, and the Mining Commissioner may reserve from prospecting pegging or digging any area necessary for the exercise by the owner of such rights.

121. Notwithstanding the repeal by this Act of Law No. 14 of 1897 the provisions of that law relative to the payment to the Crown of one per cent. of the value of base metals worked or removed, whether on Crown or private land, shall remain in force, together with such other provisions of the said law as are incidental to the assessment and collection of the said one per cent.

## PART IV.

### GENERAL AND MISCELLANEOUS.

122. The holder of any stand licence or of a prospecting or digger's licence heretofore specially registered or of a prospecting or digger's licence in respect of which a certificate of bezitrecht has been granted may hypothecate such licence subject to the provisions of the law for the time being governing the registration of mining title.

123. Whenever it shall appear expedient in the public interest, the Governor may, by proclamation in the *Gazette*, declare any land adjoining, enclosed by, or situate in the neighbourhood of proclaimed land, to be portion of a proclaimed field.

124. In determining, for the purposes of this Act or any other law, whether there are reasonable grounds for believing that precious metals or base metals exist in payable quantities on any land, the Governor shall be guided by the report of the Government Mining Engineer, who may be assisted, if the Governor so determines, by a commission of qualified mining engineers appointed by the Minister.

125. (1) The Government Mining Engineer, every Mining Commissioner, Beacon Inspector, Inspector of Mines, and any officer of the Mines Department duly authorized in writing by one of such first-mentioned officers may enter upon private land, for the purpose of carrying out any powers or duties conferred or imposed upon him by this Act or by regulation.

(2) The Director of Geological Survey and any person employed by him or acting under his written instructions, and any surveyor who is engaged in surveying ground for the purposes of this Act or any regulation, may enter upon private land (after giving due notice to all persons entitled to the use and occupation of the surface thereof) with all persons, animals, vehicles, appliances, instruments, flags, and materials necessary for such survey.

(3) Any person who prevents any such entry on private land as is authorized by this section, or wilfully obstructs or hinders any person so authorized in the exercise of his powers and duties under this Act or any regulation, shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds.

Base metal royalties.

Mortgage of claims, stands etc.

Proclaimed fields.

Determination of questions of payability.

Powers of entry on private land.

126. Wherever under this Act a Mining Commissioner is authorized or required to investigate any matter or hear any application or objection he shall for the purposes of the investigation, application, or objection, have all the powers and jurisdictions mentioned in the Commissions' Powers Ordinance 1902.

Mining Commissioner's jurisdiction incidental to investigation.

\* 127. (1) Whenever in the opinion of the Minister—

(a) development work or mining has either wholly or in part ceased on ground held under mining title; or

(b) a mine already developed has not yet produced, or a producing mine has ceased to produce precious or base metals;

When holder of mining title may be ordered to commence or continue work and penalty for not complying with such order.

he may, by notice in writing, call upon the holder of the mining title to give, within three months from the date of such notice, the reasons (if any) why the development work or mining has ceased or why such mine has not produced or has ceased to produce (as the case may be).

(2) If within such period no reasons have been stated by such holder or, if having been given, the Minister shall not deem them satisfactory, he shall appoint a commission to inquire into the matter and report to him. Such commission shall consist of the Government Mining Engineer and two other persons and shall have all the powers, jurisdiction, and privileges which may be conferred upon commissions by the Commissions Powers Ordinance 1902.

(3) The Minister shall cause written notice to be served upon the holder of the mining title of the date and place of the first sitting of the commission and shall, by such notice, require him to appear before it and submit to such commission the reasons called for in the first-mentioned notice and the evidence in support thereof. Not less than one month shall elapse between the date of such notice and the first sitting of the commission.

(4) If, after considering the commission's report, the Minister is of opinion that the development work or mining ceased or (as the case may be) such mine has not produced or ceased to produce, without adequate cause, he may, by written notice, call upon the holder of the mining title to resume and carry on development work or mining or to cause production from the mine to be commenced or resumed (as the case may be) within a period (not being less than three months) fixed by such notice.

(5) If such holder shall, within the period so fixed, fail to comply with the terms of such notice, the Governor may declare that all the rights held under such title have lapsed as from a date to be fixed.

(6) If no mortgage bond is registered in respect of the mining title the declaration of lapsing shall be served upon the holder of the mining title and shall be published in the *Gazette* and in a newspaper circulating in the mining district, and at any time thereafter the Governor may deal with the rights held under such mining title in any manner described in section thirty.

(7) If any mortgage bond is registered in respect of the mining title, notice of the Governor's declaration shall also be served immediately upon the mortgagee, and in such case the ground shall not be dealt with under section *thirty*, but a date shall be fixed and notified to such mortgagee and in the *Gazette* (not being less than three months after the notice) on which the rights held under the mining title will be put up for sale by public auction by the Mining Commissioner and the rights shall be so sold. Out of the proceeds of the sale the costs of the sale shall first be deducted and after payment to the bondholder of the unsatisfied amount of the mortgage bond and interest due thereunder, the balance shall be paid to the Treasurer.

(8) In either of the cases described in sub-sections (6) and (7), the plant, machinery, or equipment on the ground may, subject to the payment of all sums still due to the Crown, be removed by any person entitled thereto within six months after the rights aforesaid have been declared lapsed, provided that no material shall be removed or destroyed which is used for supporting underground workings. In the case described in sub-section (6), the person who was the holder of the mining title may remove, or for a period of six months or for such further time as the Governor may allow, treat and work any tailings or rock dump on the ground which he held. If in the same case such plant, machinery, equipment, tailings or rock dump be not removed within such period of six months or within any extended period that the Governor may allow, he may, if the ground is to be declared open for pegging, cause it to be sold after public tender or by public auction, or if the ground is to be leased under section *forty-six*, cause it to be sold to the lessee by private treaty, or if a State mine is to be established on the ground, may purchase it for such purpose at a price to be determined by arbitration. In the case described in sub-section (7), the plant, machinery, and equipment, if not removed within such period of six months, or within any extended period that the Governor may allow, shall be sold after public tender or by public auction, and the proceeds of the sale, after deduction of the costs of sale and any sum still due to the Crown from the holder of the mining title, and after payment to the bondholder of the unsatisfied amount of the mortgage bond and interest thereunder, shall be paid to the holder of the mining title.

State Mining  
School.

128. The Governor may establish and maintain in connection with an existing mine or institution, or otherwise, a State Mining School in which instruction shall be given in occupations incidental to mining. Only white male persons of the age of fourteen years shall be admitted to such instruction which shall only be given underground to persons of the age of sixteen years or upwards.

129. (1) The Minister may, out of moneys appropriated by Parliament for the purpose, assist the prospecting for and exploitation of precious or base metals

Government  
assistance to  
prospectors  
by medium of  
public  
batteries etc.

- (a) by erecting batteries, smelting works, ore dressing works, assaying and analytical laboratories, power stations, and pumping stations;
- (b) by the construction of roads, pipe lines, power lines, and water-courses;
- (c) by the sinking of boreholes;
- (d) generally in any other manner prescribed by regulation he may deem expedient;

and may charge fees for the use of anything so erected, constructed or sunk, and do all acts and things and enter into all contracts necessary for the purposes of this section.

(2) The Minister may, so far as he deems expedient, permit any officer of the Mines Department to advise any prospector or holder of mining title on any matter which relates to prospecting or mining for precious or base metals.

~~130. (1) Save as is provided in section twenty-four, no right may be acquired under this Act by a coloured person; and the holder of a right acquired under Law No. 15 of 1898 or a prior law or under this Act shall not transfer, or sub-let, or permit to be transferred or sub-let, any portion of such right to a coloured person, nor permit any coloured person (other than his bona fide servant) to reside on or occupy ground held under such right.~~

Prohibition against acquisition of rights under this Act by coloured persons.

~~(2) Any person contravening this section shall be guilty of an offence, and liable on conviction to a fine not exceeding fifty pounds, and in the case of a continuing contravention to a fine not exceeding five pounds for every day during which such contravention is continued.~~

~~131. (1) No coloured person shall be permitted to reside on proclaimed land in districts comprised in class A, except in bazaars, locations, mining compounds, and such other places as the Mining Commissioner may permit.~~

Restriction on residence of coloured persons on proclaimed land in districts of Class A.

~~(2) Any coloured person contravening this section shall be liable on conviction to imprisonment for a period not exceeding one month, and upon such conviction the Mining Commissioner may cause any structures occupied by or erected for the use of such coloured person to be removed.~~

~~(3) Nothing in this section shall apply to coloured persons in the employ of a white person in so far as they live on the premises where they are so employed nor to coloured persons who at the commencement of this Act were lawfully in occupation of premises.~~

\*132. (1) The regulations set forth in the Third Schedule to this Act shall be deemed to form part of this Act; provided that the Governor may by proclamation in the *Gazette* make such additions to or alterations in such regulations as are not inconsistent with this Act.

(2) All such additions and alterations shall, within seven days after the publication of such proclamation, be laid on the tables of both Houses of Parliament if Parliament be then in session, or if it be not then in session, within seven days after the commencement of its next ensuing session.

\* For amendments on Third Schedule, see Procs. (Admn.) Nos. 1, 2, 31, 34, 42, and 51 of 1909; 2 of 1910.

Prescribed fees on applications and objections to certain rights granted under the Act.

Service of notices and other documents.

Production of licences on demand.

Offences and penalties therefor.

133. On the lodging of any document mentioned in the Second Schedule to this Act the fees prescribed by such Schedule in respect of each such document shall be paid by means of revenue stamps affixed thereto; and such stamps shall be cancelled as required by law by the person with whom the document is lodged.

134. Any notice or other document required by this Act or any regulation to be served upon any person shall be deemed to be effectually served if delivered personally to such person, or left at or sent by registered post to his last usual place of abode or business, or, whenever he is absent from the Colony, if such notice or document is served in manner aforesaid on any agent in this Colony of such person.

135. (1) Every person who is required by this Act to hold any kind of licence, certificate, or other document shall produce such licence, certificate, or document on the request of the Mining Commissioner, Beacon Inspector, or the senior officer of police having authority in the mining district; provided that, in the case of the holder of a mynpacht-brief, it shall be a sufficient compliance with the requirements of this section if other satisfactory proof be given that he is such holder.

(2) Any person failing to comply with the requirements of this section shall be guilty of an offence and liable on conviction to a fine not exceeding five pounds.

136. The following persons shall be guilty of offences and be liable on conviction to the penalties herein prescribed in the case of each offence:—

(1) Any person required by this Act to obtain a permit or licence to prospect or mine for precious or base metals, who prospects or mines for any such metals without being in possession of the necessary permit or licence, shall be liable to a fine not exceeding twenty-five pounds and to a further fine of five pounds for every day upon which such prospecting or mining has been carried on.

(2) Any person who, whether he is in possession of a permit or licence or not, prospects or mines for precious or base metals upon ground on which such prospecting or mining is not authorized or is expressly forbidden by this Act, shall be liable to a fine not exceeding fifty pounds and to a further fine of ten pounds for every day upon which such prospecting or mining has been carried on.

(3) Any person who alters, moves, or wilfully damages a beacon erected under this Act or any regulation or any prior law, shall be liable to a fine not exceeding one hundred pounds.

(4) Any person who knowingly pegs any claim on ground held under mining title by another person without the written permission of such other person shall be liable to a fine not exceeding one hundred pounds.

(5) Any person who, being required by this Act to give any notice or disclose any fact to a Mining Commissioner or other officer, makes default in complying with such

requirements shall, if no other penalty is expressly provided for the default, be liable to a fine not exceeding one hundred pounds.

(6) Any person who occupies or resides upon proclaimed land without being in possession of a licence or permission under this Act or any other law authorising him to occupy or reside on such land, shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment without the option of a fine for a period not exceeding six months.

(7) Any person unlawfully removing ore from or out of ground held under mining title, shall be liable to a fine three times the value of the ore removed by him, which shall be paid to the holder of such title, and in addition shall be liable to imprisonment for a period not exceeding five years.

(8) Any person who wilfully and maliciously damages any mine, machinery, water-course, or other mining property, or attempts so to do, shall be liable to a fine not exceeding one thousand pounds, or to imprisonment, without the option of a fine, for a period not exceeding ten years. *The fact is. § 44, act 36/34.*

137. (1) In every case where imprisonment is prescribed as a punishment for any offence mentioned in this Act or any regulation, whether such imprisonment be in default of payment or without the option of a fine, it shall be with or without hard labour as the court which passes sentence may determine.

Imprisonment for offences.

(2) Whenever any fine shall have been imposed under the provisions of this Act or any regulation, and the person convicted shall not forthwith pay the same, the court imposing such fine shall order imprisonment for a period

(a) not exceeding seven days, if the fine imposed does not exceed five pounds;

(b) not exceeding fourteen days, if the fine imposed does not exceed ten pounds;

(c) not exceeding one month, if the fine imposed does not exceed twenty pounds;

(d) not exceeding six weeks, if the fine imposed does not exceed twenty-five pounds;

(e) not exceeding three months, if the fine imposed does not exceed fifty pounds;

(f) not exceeding six months, if the fine imposed does not exceed one hundred pounds;

(g) not exceeding one year, if the fine imposed does not exceed two hundred and fifty pounds;

(h) not exceeding two years, if the fine imposed does not exceed five hundred pounds;

(i) not exceeding five years, if the fine imposed be above five hundred pounds

unless such fine be sooner paid.



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Liability to penalties in proceedings against companies or partnerships.

138. In ~~any~~ <sup>all</sup> proceedings for an offence against this Act or any regulation committed by an incorporated company, the secretary, and every manager or director of such company who is in control of the business thereof in this Colony shall be liable to the penalties prescribed for such offence; and in any proceedings for such offence committed by a partnership, every member and manager in this Colony of such partnership shall be liable to such penalties; provided that nothing in this section contained shall exempt from liability any other person guilty of such offence.

When compensation for damage to be determined by arbitration.

139. Whenever it shall be found necessary in the public interest or for public purposes to take away, wholly or in part, rights granted under this Act or under any prior law, the Governor shall have the right to do so, on payment of compensation to be determined, in the absence of mutual agreement, by arbitration.

Power of Governor to enter into certain agreement.

140. The Governor may enter into an agreement with the person or his assigns mentioned in Executive Council Resolution No. 1,377 of 1904, dated the thirtieth day of November, 1904, and purporting to grant to such person or his assigns the right to prospect for precious metals on an area in the Zoutpansberg District once occupied by the Magato tribe, the grant having been made under circumstances in which such area was erroneously considered a native location. Any such agreement by which such person or his assigns will obtain for a period not exceeding ten years the exclusive right to prospect for precious metals in such area and a mynpacht brief in terms of this Act of a size fixed by the Minister, shall, notwithstanding anything in this Act contained, be deemed a valid agreement.

Saving of rights of local authorities under Ordinance No. 44 of 1904.

141. Nothing in this Act contained shall affect the operation of the Local Authorities Roads Ordinance 1904, within the area of any local authority.

Title and date of coming into operation of Act.

\*142. This Act may be cited for all purposes as the Precious and Base Metals Act 1908 and shall not come into operation unless and until the Governor shall by proclamation in the *Gazette* have declared that it is His Majesty's pleasure not to disallow the Act and thereafter it shall come into operation on such date (not before the first day of January 1909) as the Governor shall by like proclamation declare.

\* For Royal Assent and date of operation (1st January, 1909), see Pr. (Admn.) No. 120 of 1908.

## FIRST SCHEDULE.

Laws Repealed.	Extent of Repeal.
Law No. 18 of 1896	The whole.
First Volksraad Resolution 25th August 1896	Article No. 1261.
Law No. 14 of 1897 (Base Metal Law)	The whole, together with the amendment of Article <i>four</i> thereof approved by the Second Volksraad, Article No. 1749 of 22nd November, 1898, and noted and accepted by the First Volksraad, Article No. 1975, of the 8th December, 1898.
Law No. 15 of 1898 (Gold Law)	The whole.
First Volksraad Resolution 2nd December 1898	Article No. 1911.
First Volksraad Resolution 29th September 1899	Article No. 1425.
Ordinance No. 21 of 1902	The whole.
Base Metal Amendment Ordinance 1903 (Ordinance No. 42 of 1903)	The whole.
Brickmaking Lime-burning and Quarrying (Proclaimed Lands) Ordinance 1905 (Ordinance No. 7 of 1905)	The whole.
Mines Works and Machinery Regulations Amendment Ordinance 1905 (Ordinance No. 31 of 1905)	Section <i>four</i> .
Regulation of Trading (Mining Ground) Ordinance 1905 (Ordinance No. 35 of 1905)	The whole.
Mines Works and Machinery Further Amendment Ordinance 1906 (Ordinance No. 23 of 1906)	The whole.
Trading on Mining Ground Amendment Act 1907 (Act No. 35 of 1907)	The whole.

## SECOND SCHEDULE.

TABLE OF FEES ON LODGING OF CERTAIN DOCUMENTS.

Document.	Fees.
Application for Certificate of Bezitrecht .. .. .	5/-
Notice of objection to issue of Certificate of Bezitrecht .. .. .	5/-
Application for Water-Right .. .. .	5/-
Application for transfer of Water-Right .. .. .	5/-
Application for Surface Right .. .. .	5/-
Application for Machinery Site .. .. .	5/-
Application for permission to erect Buildings, construct Railways, etc., on Proclaimed land .. .. .	5/-
Notice of objection to erection of Buildings, etc., on Proclaimed land..	5/-
Application for enlargement of Stand .. .. .	5/-
Application for Stand on open Proclaimed land for erection of dwelling or place of business .. .. .	5/-
Application for Industrial Stand .. .. .	£1
Notice of objection to grant of Industrial Stand .. .. .	£1
Application for Trading Stand Certificate .. .. .	£1
Notice of objection to grant of Trading Stand Certificate .. .. .	£1
Application for Transfer of Trading Stand Certificate .. .. .	£1

### THIRD SCHEDULE.

#### REGULATIONS.

##### *Forms of Prospecting Permits.*

1. Prospecting permits under section *fourteen* of the Act shall be in Form "A" or "B," annexed to this Schedule according to the circumstances described in each such form.

##### *Pegging of Prospecting Areas.*

2. For the purpose of pegging a prospecting area under section *fifteen* of the Act, pegs fixed in the ground and projecting not less than two and one-half feet shall be placed at the angular points and at intervals of not more than two hundred yards on every side of such area. Each peg shall be surrounded by a cairn of stones or earth to the height of two feet. The direction of the two nearest pegs shall be indicated by trenches not less than six inches in depth, six inches wide, and six feet long, or, where the nature of the ground will not permit of trenches being dug, by a line of stones of like dimensions.

A board or plate shall be affixed to each peg and shall bear inscribed thereon in a legible manner the words "prospecting area," the number of the permit the name of the peger, and the date of pegging, for example, as follows:— "Prospecting area—pegged 1st May, 1908, N.-W. Beacon (or Line Beacon), John Smith, Permit No. . . . . ." If such peg, board, or inscription is missing, or if the inscription becomes illegible through exposure or otherwise, or if the cairn of stones or earth is not maintained at a proper height, it shall be deemed to be a non-compliance with section *fifteen* of the Act and this Regulation, and the Mining Commissioner may declare forfeited the rights acquired under the permit.

##### *Discovery.*

3. A prospector making a discovery shall forthwith erect a beacon at the place of such discovery as described in Regulation 12\*, which shall bear an inscription giving the name of the discoverer, the date of discovery, and the name of the metal discovered.

4. With the declaration required by section *seventeen* of the Act to be furnished to the Mining Commissioner shall be sent samples of the ore or lode discovered, together with a sketch plan prepared as nearly as may be in accordance with Regulation 24 showing the place where the discovery was made. If samples of the ore or mineral are sent to the *Mines\** Department or to any Assay Office, the certificate of the analysis or assay or a true copy thereof shall also be forwarded to the Mining Commissioner.

5. The declaration referred to in the last preceding Regulation shall be as nearly as circumstances permit according to Form "C" hereto attached, and in addition to the particulars required by section *seventeen* of the Act such declaration shall contain the following information:—

- (a) The name of the metal discovered;
- (b) the number of the prospecting permit under which the discovery was made;
- (c) a statement that the samples referred to in the certificate of assay (if any) were taken from the same ore or lode and that they are identical in character with those sent with the declaration to the Mining Commissioner;
- (d) particulars of the work done on the ground where the discovery was made.

##### *Beacons of Mynpachten, Werven and other Reservations.*

6. The beacons and trenches defining the mynpachten and reservations referred to in section *twenty-five* of the Act shall be constructed in the manner described in Regulations 7 and 10. Upon the beacons, or the plate referred to in the said Regulations, shall be inscribed the number of the mynpacht, werf, or reservation (as the case may be), the name of the owner, and the official number of the beacon.

##### *Beacons Defining Proclaimed Ground.*

7. The beacons required by section *twenty-nine* of the Act to be erected at the angular points of proclaimed land shall have minimum dimensions of four feet high, three feet square at the base, and two feet square at the top, and

\* Substituted by Proc. (Admn.) No. 1 of 1909.

where possible shall be sunk to a depth of at least one foot in the ground and shall be constructed in the manner described in Regulation 10. Upon the beacons or the plates referred to in the said Regulation shall be inscribed the name and number of the farm corresponding with the registers of the Registrar of Deeds and the official number of the beacon. The beacons defining the boundary lines shall be round, and also of the same construction as described in Regulation 10, and shall have minimum dimensions of three feet high, two feet diameter at the base and one foot diameter at the top. The trenches required by the said section of the Act shall also be constructed in the manner described in Regulation 11.

*Issue and Renewal of Claim Licences.*

8. Licences to peg claims in any mining district shall only be issued upon personal application at the office or branch office of the Mining Commissioner of such district, and such licences and any renewal thereof shall be signed by the Mining Commissioner or by any other officer of the Mines Department authorized thereto by him. At the time of making the application for such licences the applicant shall furnish the Mining Commissioner with his full name and address, and if required shall make a declaration or affidavit that he is qualified under section *thirty-two* of the Act to obtain such licence.

*Pegging of Claims under section thirty-two of the Act.*

9. Claims shall be pegged in the following manner and the pegs provided for in this regulation shall be sufficient for the first seven days thereafter inclusive of the day of pegging:—

- (a) By fixing pegs of reasonable dimensions in the ground projecting not less than two and a half feet above the ground in the middle of the long sides of each claim; the upper six inches of such peg shall be flattened or squared off and on such portion shall be inscribed in a legible manner the name of the licence holder and date of pegging; or
- (b) By fixing in the ground pegs described as above at the angular points of each block of not more than fifty claims and there shall be inscribed thereon in addition to the particulars mentioned in (a) the number of claims in the block;

provided that the method of pegging described in paragraph (b) hereof shall not be lawful until the fifth day after ground has become open for pegging by Proclamation, Declaration or Notice, nor if the Mining Commissioner gives notice that within any named boundaries claims must be pegged under paragraph (a).

*Beacons of Claims situate in Districts comprised in Class "A."*

10. In districts comprised in Class "A" the beacons required to be erected under section *thirty-four* and maintained under section *thirty-six* of the Act shall be built of concrete or solid stone masonry, or may consist of a single stone or other material of a permanent nature approved by the Beacon Inspector and where possible shall be sunk to a depth of at least six inches into the ground. The minimum dimensions of beacons shall be two and one-half feet in height, two feet square at the base, one and one-half feet square at the top, and an iron pipe not less than one inch in diameter or other suitable permanent mark, shall fix the centre, having the top level with the top of the beacon.

The name of the licence holder, the official number of the beacon, and the number of claims in the claim area shall be inscribed in a legible and durable manner on the beacon or on an iron or brass plate not less than nine inches by twelve inches sunk into the beacon or securely fastened to an iron pipe driven into the ground at the side thereof.

The holder of adjoining ground held under mining title may, subject to his first obtaining the consent of the Mining Commissioner, make use of an existing beacon to mark the boundary of his ground, provided this be done without injury to the beacon.

If buildings or other structures are to be erected on the spot where a beacon is required the Mining Commissioner may permit, or, if he deems it necessary in the interests of the fields, he may by notice require beacons to be constructed in the following manner:—

- A cylindrical block of concrete or single stone or other material of a permanent nature not less than fifteen inches diameter and twelve inches deep shall be sunk into and made level with the surface of

the ground, and an iron pipe in the centre of not less than three-quarter inch diameter by eighteen inches long shall be erected, the top end of which shall also be level with the surface of the ground. An iron or brass plate shall be sunk in the concrete or stone, and on such plate shall be cut or engraved in a legible and durable manner the particulars mentioned in the last preceding paragraph.

11. Where the nature of the ground permits a trench twelve inches deep and twelve inches wide shall be made round the beacon with a radius of not less than three feet with the rod as a centre, and trenches of similar dimensions shall be made not less than six feet long outward from the said trench in the direction of the boundary lines meeting at the beacon. Where trenches cannot be made, stones shall be placed so as to form the same design.

*Beacons of Claims situate in Districts comprised in Class "B."*

12. In districts comprised in Class "B" the beacons required to be erected under section *thirty-four* of the Act may be erected and inscribed as set forth in Regulation 10 or otherwise shall consist of either hard ant-resisting wood or iron pegs fixed in the ground and projecting not less than two and one-half feet therefrom. The pegs, if wooden, shall not be less than three inches in diameter, and the upper six inches of such pegs shall be flattened or squared off. The pegs, if iron, shall not be less than three-quarter inch diameter.

A metal plate or strong wooden board to the satisfaction of the Beacon Inspector not less than nine inches by twelve inches shall be securely fastened to the upper part of each wooden or iron peg, on which shall be written or cut, in a legible and durable manner, the name of the licence holder, the official number of the beacon, and the number of claims in the claim area.

A cairn of stones shall be placed neatly round such peg or rod to the satisfaction of the Beacon Inspector, and where the nature of the ground permits a trench, twelve inches deep and twelve inches wide, shall be made round the cairn or beacon of not less than three feet radius with the rod or peg as a centre, and trenches of similar dimensions shall be made not less than six feet long outward from the aforementioned trench in the direction of the boundary lines meeting at the beacon. Where trenches cannot be made, stones shall be placed so as to form the same design.

*Beacons defining Boundary Lines of Claims—All Districts.*

13. In all districts boundary lines of claim areas longer than four hundred yards shall have intermediate masonry beacons or rods, pegs, cairns of stones, and directory trenches, or stones, as prescribed, with the inscription "line beacon" written thereon in legible and durable letters. There shall be one line beacon to every four hundred yards or thereabouts, or at a less distance if required by the Beacon Inspector. In wooded country the Beacon Inspector may require a path or line to be cut along the boundary of a claim area, if, in his opinion, this is necessary.

*Water-Rights.*

14. The grant of a water-right may include

- (a) the right to take water from any stream, river, natural water course or spring for the purpose of generating motive power, or for purposes incidental to the working of a mining title or for any other purpose authorized by the Act;
- (b) the right to collect and store water in a stream or river and to use such water for the purposes mentioned in paragraph (a) of this Regulation.

15. The grant of a water-right may further include the right to build a weir, dam, or embankment, or to sink a sump for the purpose of enabling the holder to pump water from the river, stream, water course, or spring from which the right to take water is granted, or of enabling the holder to accumulate water for the purpose of securing a constant supply; provided that nothing herein contained or in the Act or in any water-right grant under the Act shall be construed as giving the grantee any rights over or upon any ground placed under water under such grant except such rights of access as are necessary for the purpose of constructing and maintaining the dams, weirs, embankments or other works, and of taking water therefrom.

16. Every application for a water-right under Regulation 14 paragraph (a) shall be according to Form "D," and for a water-right under Regulation 14, paragraph (b), shall be according to Form "E" hereto attached.

17. Until a water-right granted be confirmed by the Minister, it may be sufficiently demarcated on the ground by means of such beacons as are described in Regulation 12 \*, and on such beacons shall be legibly inscribed the words "provisional water-right beacon" and the name of the applicant. A copy of the application shall be posted on the ground and affixed to one of the beacons.

18. As soon as the grant of any water-right has been confirmed by the Minister, proper beacons shall be erected in accordance with the provisions of Regulation 10.

19. On every sketch plan representing a water-right on a river or stream shall be shown the respective positions of the dam, weir, or sump, the intake beacon and the return beacon, provided that in the case of a water-right for generating motive power the point or points at which the machinery for generating the power is to be erected shall also be fixed and provided further that the Mining Commissioner may at any time authorize the erection of machinery at any other point from which the water may be returned to the return beacon.

20. In every diagram of a water-right numerical data for the beacons mentioned in the last preceding Regulation shall be given.

21. A sketch plan of a water-right shall show the adjoining properties and give the names of the owners thereof, and such additional information as in the opinion of the Mining Commissioner may be necessary, and shall be signed by the applicant and the Beacon Inspector.

22. No holder of a water-right or mining title shall allow the refuse from his battery or mining plant to flow or fall into, pollute, or make turbid the water in any stream, river, or water course.

23. Any person disturbing or fouling any river, stream, water or water course or water furrow shall on failure to abate the nuisance after notice from the Mining Commissioner be guilty of an offence and liable to a fine not exceeding fifty pounds.

#### *Sketch Plans.*

† 24. All sketch plans required by the Act shall be prepared on tracing linen or substantial paper of good quality, and shall show the north point, adjoining claims, with the holder's names, if possible, together with any other information which, in the opinion of the Mining Commissioner, is necessary to assist in fixing the position of the claim or other right.

#### *Quarrying and Brickmaking, etc.*

25. Quarrying, lime-burning and brickmaking, under section *seventy-five* of the Act, shall be carried on over such extent of ground as the Mining Commissioner may determine, and in such a manner as not to endanger the health of the persons employed in such work or of the general public, or to constitute a public nuisance provided that no one permit shall be issued for a greater area than 400 feet by 150 feet.

26. The Mining Commissioner shall have authority to investigate any complaints or to make investigations on his own motion, and, after hearing the parties concerned and after consultation with the Medical Officer of Health or District Surgeon, to order the work to be so conducted and the ground to be so drained or other provision made as to remove the cause of the complaint. Non-compliance with the order of the Mining Commissioner shall be punishable upon conviction by a competent authority, with a fine of not more than fifty pounds.

#### *Residential, Business and Industrial Stands.*

27. The rate of licence moneys payable per month upon residential and business stands granted under section *seventy-eight* of the Act, and the size of such stands shall be as follows :—

50 feet × 100 feet	..	..	..	11	3
100 feet × 100 feet	..	..	..	17	0
100 feet × 150 feet	..	..	..	21	0

28. The rate of licence moneys payable per month upon stands enlarged under section *seventy-seven* and stands granted under section *seventy-nine* of the Act, and the size of such stands shall be as follows :—

\* Substituted by Proc. (Admn.) No. 1 of 1909.

† Substituted by Proc. (Admn.) No. 42 of 1909.

	s.	d.
5,000 square feet and less .. .. .	11	3
In excess of 5,000 square feet and not exceeding 10,000 square feet	17	0
In excess of 10,000 square feet and not exceeding 15,000 square feet .. .. .	21	0
In excess of 15,000 square feet and not exceeding 20,000 square feet .. .. .	25	0
In excess of 20,000 square feet and not exceeding 25,000 square feet .. .. .	30	0
In excess of 25,000 square feet and not exceeding 30,000 square feet .. .. .	35	0
In excess of 30,000 square feet, at the rate of 5s. per month for every additional 10,000 square feet or portion thereof.		

29. No stand of a lesser area than one hundred feet by one hundred feet shall be granted under section *seventy-eight* or *seventy-nine* of the Act unless an area of ground one hundred feet by one hundred feet is not available, and no stand shall be granted under section *seventy-eight* of the Act in such a position as to interfere with the working of any mine or at a less distance than six hundred feet from any compound.

30. Notice of application for a stand under section *seventy-eight* of the Act signed by the Mining Commissioner and the applicant, together with a true copy of the sketch plan, shall be posted for one month on the ground applied for, and at the Mining Commissioner's and the Beacon Inspector's Offices, and, if required by the Mining Commissioner, at the nearest post office. Such notice shall also be served upon or sent by registered post to the owner of the nearest ground held under mining title if there be any such within one mile. The ground applied for shall be deemed to be reserved for stand purposes from the date of the posting of the application on the ground until the application is disposed of; provided that at the time when the Mining Commissioner decides in favour of the applicant he shall state a period within which the diagrams mentioned in section *eighty-one* of the Act shall be lodged and the beacons therein mentioned erected. If the applicant fails to lodge the diagram and erect the beacons within the said period the Mining Commissioner may cancel the grant.

31. Any person may appear either personally or by an authorized representative, and an incorporated body of persons may appear by an authorized representative and object to the setting aside of such stand; provided that every objector shall have given seven days' notice of intention to object and the reasons therefor to the Mining Commissioner and to the applicant.

32. The beacons required by section *eighty-one* of the Act shall be constructed in the manner described in Regulation 10. Upon the beacons or the plates referred to in the said Regulation shall be inscribed the number of the stand and the official number of the beacon.

#### *Regulations in respect of Trading Stands.*

33. Every person to whom has been granted by the Board mentioned in section *eighty-three* of the Act a certificate entitling him to obtain a trading licence in respect of a stand set aside for trading purposes under the said section shall pay to the said Board a monthly rent to be fixed by the Board not less than the amount of the stand licence under Regulation 28, or more than one hundred pounds sterling in respect of such stand; such rent shall be payable in advance on the first day of each month at the office of the Mining Commissioner of the mining district in which each stand is situated, \* *and any rent so fixed may be reduced or increased at the date of any renewal of the certificate, if, on inspection of the books of the certificate holder by the Board, the majority of the Board are of opinion that the business done justifies such alteration.*

34. The amounts payable as licence moneys on stands so set apart shall be as set forth in Regulation 28.

#### *Diagrams.*

† 35. Where the beacons of any ground held under mining title or owner's reservation (wert) are missing, or where it is shown to the satisfaction of the Surveyor-General that such beacons have not been erected in their proper position, such beacons shall be placed or replaced in accordance with the data of the diagram or of the confirmed diagram under the direct supervision of a land surveyor, and at the cost of the holder of such mining title, reservation, or wert.

\* Words in italics added by Proc. (Admn.) No. 2 of 1910.

† As amended by Proc. (Admn.) No. 1 of 1909

\* 36. Wherever in the Act a diagram or confirmed diagram is required for the same it shall be prepared in quadruplicate and sent to the office of the Surveyor-General for examination.

\* 37. Where under the Act a confirmed diagram is required, the Surveyor-General shall publish a Notice in three consecutive issues of the *Gazette* to the effect that the diagrams are open for inspection at the offices of the Surveyor-General and the Mining Commissioner, and that if within one month after the date of the first publication no valid protest be lodged with either such officer against the confirmation of the said diagrams, the same will be confirmed. Every protest against the confirmation of such diagram shall be published by the Surveyor-General in one issue of the *Gazette* and such protest shall, within one month of such publication, be followed up by the taking out of a summons. If no summons be taken out within the prescribed period the protest shall be deemed to have lapsed and the diagrams shall be confirmed by the Surveyor-General as if there had been no such protest.

\* 38. Diagrams of sub-divisions of ground held under mining title, and werven for which confirmed diagrams are required, shall be approved by the Surveyor-General without publication.

† *Regulations.*

† 39. (1) *The classes of licences mentioned in sub-section (2) of section one hundred and six of the Precious and Base Metals Act, 1908, shall be :—*

(a) *Recovery Works Licence.*

(b) *Jeweller's Licence.*

(2) *A Recovery Works Licence shall entitle the holder thereof to deal in all forms of unwrought precious metal excepting that he shall not purchase it in the form of smelted or retorted gold, amalgam, zinc gold slimes, shavings, lead strips, or bars containing gold.*

(3) *A Jeweller's Licence shall not entitle the holder to purchase unwrought precious metal except from a banker, or alluvial gold except from a person who holds the permit of the Mining Commissioner to sell alluvial gold, and who delivers over the permit to the jewellers at the time of the purchase. The permit shall be retained by the jeweller.*

(4) *A Recovery Works Licence shall be in Form "F," A Jeweller's Licence shall be in Form "G", and an alluvial gold permit shall be in Form "H", annexed to the Regulations.*

† 40. (1) *Whenever the Receiver of Revenue shall for any reason refuse to renew a licence, it shall be the duty of the person who held the licence to make a solemn declaration of the quantity of the unwrought precious metal in his possession at the date of the refusal, and to dispose of the same within a period of three months thereafter.*

(2) *Deleted by Proc. (Admn.) No. 51 of 1909.*

(3) *Any person failing to comply with the provisions of this Regulation shall be liable on conviction to the penalties mentioned in Regulation fifty-one.*

† 41. *A banker shall only buy unwrought precious metal in the form of a bar identifiable in the manner provided in Regulation forty-seven (1) unless the owner has a permit from the Mining Commissioner of the district in Form "H" annexed to these Regulations, and he shall satisfy himself that the seller is entitled to sell the particular unwrought precious metal. Where a transaction takes place between a banker and the holder of a permit to sell unwrought precious metal such permit shall be handed over to the banker and retained by him.*

† 42. *No jeweller shall dispose of jeweller's sweepings to any person (whether or not such person be authorized to deal in or possess unwrought precious metals) until the same have been submitted to the inspection of the Senior Officer of Police in the district.*

† 43. (1) *In a stamp mill or treatment building all amalgamating plates and extractor boxes shall be covered with screens or other devices approved by an Inspector of Mines. Such screens or devices shall be kept under double lock, and such plates or boxes shall not be uncovered for any purpose whatsoever except in the presence of at least two white men, each of whom shall be in possession of one of the keys.*

(2) *The mine manager shall be responsible for ensuring compliance with this Regulation, and, in the event of any non-compliance therewith he shall be deemed guilty of a contravention thereof.*

\* As amended by Proc. (Admn.) No. 1 of 1909.

† Added by Proc. (Admn.) No. 2 of 1909.



(3) Notwithstanding the responsibility of the mine manager, any person who shall contravene this Regulation shall be guilty of an offence and liable on conviction to the penalties mentioned in Regulation fifty-one.

\* 44. (1) Unwrought precious metal in the form of bullion, retorted gold, amalgam, zinc gold slimes or shavings, lead strips or bars, untreated black sands, matte, or any other rich bye-products, shall only be handled in reduction works in the presence and under the direct supervision of at least two white men.

(2) The provisions of sub-sections (2) and (3) of the last preceding Regulation shall be deemed to be incorporated in this Regulation.

\* 45. (1) Unwrought precious metal in a stamp mill in the form of amalgam, untreated black sands, or rich scrapings, shall immediately after being removed from plates, mortar boxes, traps, launders, or other devices or places in which it is caught, be deposited in a suitable receptacle which shall be kept locked and from which such unwrought precious metal shall not be removable without unlocking.

(2) Amalgam, untreated black sands, scrapings, retorted gold, bullion, and zinc gold slimes, after removal from the filter press shall, if and when stored, be forthwith deposited in a safe, strong-room, or other receptacle, which shall be kept under double lock, and such safe, strong-room, or other receptacle shall not be opened for any purpose whatsoever except in the presence of at least two white men, each of whom shall be in possession of one of the keys.

(3) The provisions of sub-sections (2) and (3) of Regulation forty-three shall be deemed to be incorporated in this Regulation.

\* 46. Nothing in Regulations forty-three to forty-five inclusive shall apply to—

- (a) any person certified under the hand of an Inspector of Mines to be an alluvial digger ;
- (b) any reef miner who holds on his own behalf not more than fifteen claims, and has been personally working the same ;
- (c) any other person specially exempted from the provisions of these Regulations by the Minister of Mines upon application in writing made to a Mining Commissioner or Inspector of Mines.

The Minister of Mines may grant the exemption mentioned in paragraph (c) upon such terms and conditions as he thinks fit.

† 47. (1) No person shall transport any unwrought precious metal outside the boundaries of the mine, works, or other property or place in which it is located without a permit from the Senior Officer of Police having authority in the district. Such permit shall be according to Form "1" annexed to these Regulations and shall be issued subject to any further conditions made from time to time by the Minister of Mines and attached to that form, and shall not be issued except for the transport of slags, matte, pots, battery chips, or other such bye-products, or for smelted gold in bar, ingot, button, or other form identifiable by a specific mark cast in each bar, ingot, button, or other form, such mark being registered in the office of the Mining Commissioner of the district.

(2) Exemption from the provisions of this Regulation may be granted by the Minister of Mines, and application for such exemption shall be made in writing to a Mining Commissioner or an Inspector of Mines.

(3) Any person not exempted from the provision of this Regulation who shall contravene the same or any condition upon which the permit mentioned therein is issued shall be liable on conviction to the penalties mentioned in Regulation fifty-one.

\* 48. Every police officer or constable may

- (a) enter at all times upon any place or works for the reception of unwrought precious metal, stop and search every vehicle conveying or suspected or supposed to be conveying unwrought precious metal, and seal, mark, or otherwise secure any package found in such place, works, or in such vehicle ;
- (b) board, search, and freely remain on any train while exercising any powers conferred by law or these Regulations ;
- (c) open any place, works, box, or package which is locked, if the keys thereof be not produced upon his demand ;
- (d) examine or search every part of any such place, works, or vehicle for any purpose authorized by this Regulation, and take an account of all unwrought precious metal found therein, and, if he thinks fit, take such unwrought precious metal into custody ;

\* Added by Proc. (Admn.) No. 2 of 1909.

† Added by Proc. (Admn.) No. 2 of 1909, and new regulation substituted by Proc. (Admn.) No. 34 of 1909.

- (e) search any person who he has good reason to believe has unwrought precious metal secreted about his person or in his possession, provided that such person may demand to be taken before the Senior Officer of Police having authority in the district, who shall either discharge the person forthwith without searching him or direct him forthwith to be searched; provided further that a female shall not be searched by any other than a female.

\* 49. (1) Every Mining Commissioner, Inspector, or Assistant Inspector of Mines, Beacon Inspector, European member of a police force duly established by law of the rank of sergeant or over shall have power to do all or any of the following things, namely—

- (a) to enter, inspect, or examine at all reasonable times by day and by night any jeweller's premises and any reduction or smelting works, whether situated on a mine or elsewhere, and any other place or works where he has reason to believe unwrought precious metal is unlawfully kept;
  - (b) to make such enquiry and examination as may be considered necessary to ascertain whether the provisions of these Regulations or any amendment thereof are being or have been duly complied with;
  - (c) to inspect such registers as are required to be kept by section one hundred and eleven of the Act in respect of any transactions in unwrought precious metal;
  - (d) to take samples of any unwrought precious metal that may be stored or lying at any place or works and to make such other investigations as he may consider necessary.
- (2) Any coloured person employed upon reduction works may be searched at any time by any person authorized in writing by the manager of such works.

\* 50. The register required to be kept by sub-section (1) of section one hundred and eleven of the Act shall be according to either Form "K" or "L" attached hereto as the nature of the transaction requires.

\* 51. The penalties for a contravention or failure to comply with any requirements of these Regulations shall be those prescribed by sub-section (2) of section one hundred and five of the Act.

#### ADDITIONAL REGULATIONS IN RESPECT OF TRADING STANDS.

† 52. All applications shall be made on forms provided for that purpose, to be obtained from the Secretary to the Board, and mentioned in section eighty-three of the Act.

† 53. Meetings of the Board open to the public shall be held in each of the Mining Districts of Johannesburg, Boksburg, and Krugersdorp, in the month of December in each year, for the purpose of hearing applications for the renewal of certificates granted by the Board in respect of stands situated in the respective districts.

† 54. Meetings of the Board open to the public shall be held from time to time in the aforesaid mining districts for the purpose of hearing applications for the grant of certificates to trade upon stands set apart by the Board in the respective mining districts.

† 55. A meeting of the Board open to the public shall be held in Johannesburg on the first Wednesday in the month, when necessary, for the purpose of hearing applications for the transfer of certificates.

† 56. Every person holding a certificate to carry on business on a stand set aside for trading purposes under the provisions of the Act shall enter into a lease of such stand with the Board in the Form "M" annexed to the Regulations. The said lease shall be of force and effect only so long as the lessee continues to hold a certificate to trade on such stand under the said Act or any amendment thereof.

† 57. Five (5) members of the Board shall form a quorum for the despatch of business. If a quorum be not present at any meeting of the Board on the day appointed as advertised or at any adjournment thereof the meeting shall be adjourned from day to day until the quorum be present to hold such meeting.

† 58. No communication, whether oral or written, respecting any application, shall under any circumstances be addressed by or on behalf of any applicant to any individual member of the Board.

† 59. The Board may require any lessee to make and deliver in a form approved by the Board a sworn declaration of the aggregate amount of his sales in all businesses of whatsoever nature conducted on the stand during the year or any part thereof preceding the date of such request, and may require such lessee to lodge his books with the Secretary to the Board for inspection.

\* Added by Proc. (Admn.) No. 2 of 1909.

† Added by Proc. (Admn.) No. 31 of 1909.

FORMS.

A.

(The Precious and Base Metals Act 1908.)

PROSPECTING PERMIT.

No. ....  
 Permission is hereby granted under the provisions of the above Act to  
 (Name in full) .....  
 (Address) .....  
 to search and prospect for precious and base metals for a period of twelve months  
 ending ..... 19... upon unproclaimed Crown Land, unpro-  
 claimed Private Land, and proclaimed Crown Land not held under Mining Title  
 rendered available for prospectors in terms of the Act.  
 Fee paid 5s.

.....  
*Title of Issuing Officer.*



B.—PRIVATE LAND.

Mining District of.....

PROSPECTING PERMIT.

(The Precious and Base Metals Act, 1908.)

Permission is hereby granted under the provisions of the above Act to  
 (Name of holder in full) .....  
 (Address) .....  
 to search and prospect for precious metals on the farm :—  
 (Name and No. of Farm) .....  
 (District) .....  
 (Owner) .....  
 for the period of ..... months from .....  
 190... to ..... 190....

This permit is issued with the consent of the holder of the Mineral Rights.  
 Consent No. .... dated ..... 19....

Amount of fee paid .. .. £ s. d.  
 .. .. .. 0 5 0

.....  
*Licence Clerk.*

Office Date Stamp.

.....  
*Mining Commissioner.*

C.—FORM OF DECLARATION OF DISCOVERY.

I, ..... of the town of  
 ..... Address.....  
 do solemnly declare :—

1. That on the ..... day of ..... 190..., I  
 discovered what I believe to be ..... at  
 .....  
 under Prospecting Permit No. ...., issued by the Mining  
 Commissioner at .....  
 dated ..... and that to the best of my belief  
 and knowledge I am the first discoverer thereof.
2. That the samples sent herewith marked with my name were taken  
 from a body of ore or lode on the ground which is shown on the sketch  
 plan hereto attached, and were broken from the said lode by me. .

\*3. That I forwarded samples thereof to the Geological Survey Department, Pretoria, or.....Assay Office, and duly received the certificate attached hereto. The samples sent for assay are from the same lode, and are identical in character with those sent herewith.

4. That the following are true and correct particulars of the work done by me on the ground :—†  
The outcrop and the above shafts and cuttings disclose the following bodies of ore :—.....

2s. 6d. Stamp.

Signature.

Sworn before me at.....this.....day of  
.....190.....

Justice of the Peace.

D.—APPLICATION FOR A WATER-RIGHT.

(The right to take and use water from a stream, river, natural water-course, or springs.)

I,.....residing at.....  
being authorized by.....holder(s) of the following mining title  
situate on the farm.....No.....  
portion owned by.....  
do hereby make application on behalf of the said.....

for a water-right, particulars of which are as follow :—

1. Point of intake .....
2. Where water is to be used.....
3. Point of return.....
4. Difference in level between each of the above points.....
5. Maximum height of weir or dam (if any) above lowest point in bed of stream, river, or water-course .....
6. Description and dimensions of weir, dam, or sump.....
7. Gradient (percentage or fall of water-course) between points one and two and between points named two and three.....
8. Quantity and mean velocity of water flowing in stream (cubic feet per minute) :—  
    (a) In dry season.....  
    (b) In wet season .....
9. Quantity and mean velocity of water required in water-course (cubic feet per minute).....
10. Theoretical water horse-power (measured at point of use).....
11. The power is to be used for (here state description of machinery) .....
12. The water is to be used for.....
13. The water-right is to be attached to.....

The above particulars are shown on the sketch plan hereunto annexed, dated.....

Thus done at.....the.....  
day of.....190.....

5s. Stamp.

Applicant.

N.B.—If not required for generating motive power, strike out clauses 4, 7, 10, and 11.

\* Paragraph 3 to be struck out if samples not sent to Geo. Surv. Dept. or to Assay Office.  
† Here describe situation fully. Give full particulars of work done, such as shafts, cuttings, trenches, etc.

E.—APPLICATION FOR THE RIGHT TO CONSTRUCT DAMS OR EMBANKMENTS IN A STREAM OR RIVER FOR THE PURPOSE OF CATCHING AND STORING WATER.

I, ... residing at ... being authorized by ... holder(s) of the following mining title ... situate on the farm ... No. ... portion owned by ... in the Mining District of ... do hereby make application on behalf of the said ...

for the right to catch and to store water on the area within the beacons shown on the sketch plan hereunto annexed, dated ... 190... upon which sketch plan is also shown the position of the proposed dam or embankment.

- 1. Point where water is to be used.
2. Description and dimensions of dam or embankment.
3. Maximum quantity of water to be conserved (to be stated in gallons)
4. Superficial area of ground to be placed under water.
5. Full particulars of mining titles (if any) affected.
6. The water is to be used for.
7. The water-right is to be attached to.

Thus done at ... the ... day of ... 190...

Stamp 5s. ... Applicant.

\*" F."

Transvaal, District ... Office stamp and date.

Receipt No. ....

RECOVERY WORKS LICENCE.

(The Precious and Base Metals Act, 1908.)

A Recovery Works Licence, as required by Regulation No. 39, published under Proclamation No. 2 (Admn.), 1909, is hereby granted to (full name of licensee, with address) ... for the period of ... months, ending ... 19...

Amount of licence money paid ... £ s. d. Licence granted this ... day of ... 19...

District Receiver of Revenue.

This licence entitles the holder to deal in unwrought precious metal as set forth in paragraph (2) of the abovementioned Regulation within the Mining District of ... and is not transferable.

(For copy of Regulation, see back hereof.)

\* Original Form F deleted by Proc. (Admn.) No. 1 of 1909, and new form added by Proc. (Admn.) No. 2 of 1909.

\* "G."

Transvaal, District.....  
Office stamp and date.

Receipt No.....

JEWELLER'S LICENCE.

(The Precious and Base Metals Act, 1908.)

A Jeweller's Licence as required by Regulation No. 39, published under Proclamation (Admn.) No. 2, 1909, is hereby granted to (full name of licensee, with address).....for the period of.....months, ending.....19....

Amount of licence money paid .. .. . £ s. d.  
Licence granted this.....day of.....19....

District Receiver of Revenue.

This licence entitles the holder to purchase unwrought precious metal as set forth in paragraph (3) of the abovementioned Regulation within the Mining District of....., and is not transferable.

(For copy of Regulation, see back hereof.)

\* "H."

Transvaal, District.....  
Office stamp and date.

Permit No.....

PERMIT TO SELL ALLUVIAL GOLD.

(The Precious and Base Metals Act, 1908.)

Permission is hereby granted to (full name and address).....  
.....who is the holder of.....Licence No.....  
to sell (description and quantity of unwrought precious metal).....

.....  
Mining Commissioner.

This permit is not transferable, and must be surrendered to the purchaser.

\* "I."

Transvaal, District.....  
Office stamp and date.

Permit No.....

PERMIT TO TRANSPORT UNWROUGHT PRECIOUS METAL.

(The Precious and Base Metals Act, 1908.)

Permission is hereby granted to (full name and address).....  
.....to transport (description and quantity of unwrought  
precious metal).....from.....  
to.....

This permit is available for.....days only from above date.  
.....(Rank).

Officer of Police in charge of.....District.

This permit is not transferable.

° Added by Proc. (Admn.) No. 2 of 1909.

\*“K.”

*REGISTER OF UNWROUGHT PRECIOUS METAL DEPOSITED WITH OR RECEIVED BY.....**(Kept in terms of Article 111 (1) of the Precious and Base Metals Act, 1908.)*

<i>Date.</i>	<i>Name of Seller or Depositor.</i>	<i>Nature and Weight of Material.</i>	<i>Weight of Precious Metal.</i>	<i>Price paid (if any).</i>	<i>No. of "Permit to sell" (if any) and place of issue.</i>

\*“L.”

*REGISTER OF UNWROUGHT PRECIOUS METAL DESPATCHED OR DISPOSED OF BY.....**(Kept in terms of Article 111 (1) of the Precious and Base Metals Act, 1908.)*

<i>Date.</i>	<i>Name of Person or Company to whom Precious Metal belongs.</i>	<i>Name of Consignee.</i>	<i>To whom disposed of.</i>	<i>Nature and Weight of Material.</i>	<i>Weight of Precious Metal.</i>	<i>Price received (if any).</i>

\* Added by Proc. (Admn.) No. 2 of 1909.

" M."

## \* FORM OF LEASE.

(The Precious and Base Metals Act, No. 35 of 1908.)

## Trading on Mining Ground.

Memorandum of agreement made and entered into at Johannesburg, in the Transvaal, on this the.....day of....., 19.... between..... in his capacity as Chairman of the Board for Regulation of Trading on Mining Ground appointed under the provisions of section eighty-three, sub-section (1) of Act No. 35 of 1908 (hereinafter styled the Lessor) of the one part; and..... (hereinafter styled the Lessee) of the other part.

1. The Lessor hereby lets and the Lessee hereby hires a certain trading stand No....., situated on Mynpacht No....., registered in the name of....., on the farm....., No....., in the Mining District of....., as will more fully appear upon reference being had to the diagram of the said stand filed in the Office of the Mining Commissioner according to law. This lease is entered into as and from and is deemed to have commenced on the.....day of....., 19...., and shall continue subject to the provisions hereinafter mentioned so long as the Lessee continues to hold a certificate to trade on such stand under the said Act or any amendment thereof.

2. The monthly rent in respect of this lease is..... (£.....) sterling, or such other sum as the Board may from time to time determine,† payable monthly in advance on the first day of each and every month at the office of the Mining Commissioner of the district.

3. The Lessee and any subsequent Transferee of this lease shall register his postal address with the Secretary to the Board, and all notices shall be sent to such address.

4. The Lessee shall pay a fee of..... to the Lessor, being expenses of survey and erection of beacons for the stand hereby leased.

5. Should the rent reserved or other sums of money hereby made recoverable in the same manner as the said rents be overdue and unpaid for a period of seven (7) days after the same shall be due and payable as before set forth the Lessor shall make demand for same in writing by letter through the Post Office to the Lessee's registered address, and should such rent remain unpaid for fourteen (14) days after posting of such letter the Lessor shall have the right to retake possession of the said stand, buildings, and erections thereon, and shall have the right to cancel this lease, and notice of such cancellation shall be addressed through the Post Office to the Lessee's registered address, and thereupon this lease shall terminate without prejudice however to any rights of the Lessor against the Lessee.

At the termination of this lease or earlier cancellation or lapse thereof the stand hereby let, together with all buildings and erections thereon, shall revert to the Lessor, and the only compensation to be paid to the Lessee shall be that provided for in section ninety, sub-section (d) of the said Act.

6. The Lessee shall in all respects conform to and obey all Municipal Statutes and all Bye-laws and Regulations made thereunder for sanitary or other purposes, and shall pay and discharge all rates and taxes which may be or become due or be levied by lawful authority upon or in respect of the said stand or any erections thereon.

7. This lease is subject to the provisions of Act No. 35 of 1908, and any amendment thereof, and to any Regulations made or to be made thereunder, and is further subject to any conditions that may be imposed and endorsed on the certificate granted under the said Act.

\* Added by Proc. (Admn.) No. 31 of 1909.

† Words in roman letters inserted by Proc. (Admn.) No. 2 of 1910.



Thus done and passed at Johannesburg, on the day and year aforesaid, in the presence of the undersigned witnesses.

As witnesses :

.....  
.....

.....  
Chairman of the Board appointed under section eighty-three (1) of Act No. 35 of 1908.

.....  
Lessee.

Ceded and transferred to.....  
who by these presents accepts the same under above conditions.

Approved and registered.

Johannesburg, ....., 19....

Accepted by.....

Transferee.

Witness.....

.....  
Secretary to the Board.

Ceded and transferred to.....  
who by these presents accepts the same under above conditions.

Approved and registered.

Johannesburg....., 19....

Accepted by.....

Transferee.

Witness.....

.....  
Secretary to the Board.

Act No. 36 of 1908.] [Promulgated 2nd September, 1908.

AN ACT

TO VALIDATE THE VOLUNTARY REGISTRATION OF CERTAIN ASIATICS WHO FAILED TO COMPLY WITH THE PROVISIONS OF ACT No. 2 OF 1907 AND TO MAKE FURTHER PROVISION FOR THE REGISTRATION OF ASIATICS.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

PRELIMINARY.

1. In this Act unless inconsistent with the context;
- “adult” shall mean of the age of sixteen years or over;
- “application for registration” shall mean an application to be placed on the register of Asiatics made in the manner and form prescribed by regulation and accompanied by the particulars and means of identification required by regulation;
- “Asiatic” shall mean any male person belonging to one of the native races of Asia and shall include a coolie, an Arab and a Malay but shall not include—
- (a) a Malay born and resident in any British Colony or possession in South Africa; or
- (b) a person introduced into this Colony under the Labour Importation Ordinance 1904; or
- (c) an officer of any consular service;
- “certificate of registration” shall mean a certificate of registration under Act No. 2 of 1907, or a certificate under this Act in the form set forth in the Schedule to this Act or as prescribed by regulation;
- “commencement of this Act” shall mean the date on which this Act came into operation;
- “Governor” shall mean the officer for the time being administering the Government of this Colony acting by and with the advice and consent of the Executive Council thereof;
- “guardian” shall mean the parent of a minor Asiatic or any other person under whose care such minor is living for the time being, or failing any such person the employer of such minor;

Interpreta-  
tion of terms.

- “lawful holder” as used in relation to any certificate of registration shall mean the person (other than a minor named therein) whose registration is thereby certified;
- “minor” shall mean under the age of sixteen years;
- “register of Asiatics” shall mean the register to be kept for purposes of this Act in manner prescribed by regulation;
- “registrar” shall mean the officer appointed by the Governor to keep the register of Asiatics and any person lawfully acting in such capacity;
- “regulation” shall mean any regulation made under section *seventeen* of this Act;
- “unregistered Asiatic” shall mean an adult Asiatic who is not the holder of a certificate of registration.

## PART I.

### VALIDATION OF VOLUNTARY REGISTRATION.

2. (1) Every person—

(a) who is an Asiatic as defined by Act No. 2 of 1907; and

(b) by or in respect of whom an application for registration was on the tenth day of February 1908, or on any day subsequent thereto up till the tenth day of May 1908, made to the registrar or other duly authorised officer; and

(c) to or in respect of whom a certificate in the form set forth in the Schedule to this Act was issued by the registrar;

shall, when in possession of such certificate, be deemed to be the lawful holder of a certificate entitling him to enter and reside in the Colony.

(2) Every person who, having been the lawful holder of a certificate of registration under Act No. 2 of 1907, has been permitted to obtain a certificate in the form in the Schedule to this Act in substitution for such first-mentioned certificate, shall also be deemed to be the lawful holder of a certificate entitling him to enter and reside in this Colony.

(3) Every Asiatic who holds any certificate mentioned in this section shall be subject in all respects to the provisions of this Act and not to the provisions of Act No. 2 of 1907.

## PART II.

### REGISTRATION OF ASIATICS AFTER THE COMMENCEMENT OF THIS ACT.

3. An Asiatic shall be entitled to registration under this Act if—

- (a) he satisfies the conditions described in sub-sections (2) or (3) of section *four*, whether he was or was not in this Colony at the commencement of this Act; or

Recognition of certificate issued in scheduled form to Asiatics applying for registration on and after certain dates.

Asiatics who may be registered under this Act.

(b) being the lawful holder of a certificate of registration issued under Act No. 2 of 1907, he desires to exchange such certificate for a certificate of registration under this Act; or

(c) having been a minor resident in this Colony at the commencement of this Act, he first entered the Colony with an adult Asiatic who was his guardian and who was registered under Law No. 3 of 1885 or any amendment thereof or is registered or entitled to registration under this Act; or

(d) he was born in any part of South Africa which was at the date of his birth within the boundaries of the Transvaal.

\*4. (1) Every unregistered adult Asiatic resident in this Colony at the commencement of this Act shall before such date or dates and at such place or places and to such person or persons as the Colonial Secretary may by notice in the *Gazette* prescribe for particular areas of this Colony, make application for registration, and the registrar shall, on being satisfied that such Asiatic is entitled to registration, issue to him a certificate of registration.

Registration of adult Asiatics.

(2) Every unregistered adult Asiatic resident outside the Colony at the commencement of this Act, shall,

(a) if he was resident in the Transvaal for three years prior to the eleventh day of October 1899; and

(b) upon application for registration from a place in South Africa but outside the Colony within one year after the commencement of this Act; and

(c) upon satisfying the registrar of the facts mentioned in this sub-section;

be entitled to obtain a certificate of registration.

(3) Every unregistered adult Asiatic resident outside this Colony at the commencement of this Act but who was—

(a) duly authorised to enter and reside in this Colony by a permit issued under the Indemnity and Peace Preservation Ordinance 1902 or any amendment thereof or issued between the first day of September 1900 and the date of the passing of the said Ordinance (unless such permit shall have been fraudulently obtained); or

(b) was resident and actually in this Colony on the thirty-first day of May 1902;

shall be entitled, upon satisfying the registrar of the fact set forth in paragraph (a) or (b) of this sub-section and upon application for registration from a place in South Africa but outside the Colony, to obtain a certificate of registration.

5. In respect of every unregistered minor Asiatic born in this Colony, not being the child of a labourer introduced into

Minor Asiatics.

\* See Govt. Notice No. 951 of 1908 (*Gazette*, 21/9/08, p. 1110), fixing time as from 1st Oct., 1908, to 30th Nov., 1908, within which Asiatics to apply for registration, and places as Government Offices, Old Church Buildings, Von Brandis Square, Johannesburg (Oct.), and Office of Registrar of Asiatics, National Bank Buildings, Pretoria (Nov.).

this Colony under the Labour Importation Ordinance 1904, the following provisions shall apply:—

(1) If his guardian is an Asiatic, the minor's name, his age, his residence and his relationship to his guardian shall be included in the certificate of registration of his guardian.

(2) Within one month after such minor attains the age of sixteen years he shall make application to the registrar for a certificate of registration; provided that, if he be absent from the Colony on attaining that age or one month thereafter, he may, from a place in South Africa but outside the Colony, make application to the registrar for registration and upon satisfying the registrar that he is entitled to registration, the registrar shall issue to him a certificate of registration, and his name shall thereupon be expunged from the register of Asiatics as a minor and shall be deemed to be no longer included in his guardian's certificate of registration.

Registrar not to register an Asiatic who is not entitled to registration and procedure in case of refusal to register.

\*6. (1) Whenever the registrar is satisfied that any Asiatic claiming to be entitled to registration under section *three* is not so entitled, he shall refuse to issue to him a certificate of registration, and notice of the refusal shall be sent by post to such Asiatic at the address given upon his form of application.

(2) In every case of refusal by the registrar to issue a certificate of registration, an appeal may, within fourteen days of the date of the notice of refusal, be noted by letter addressed to the Colonial Secretary, and such appeal shall be heard by a magistrate specially assigned by the Governor to hear such appeals, and such magistrate shall be deemed, when hearing any such appeal, to be an inferior court within the meaning of section *nineteen* of the Administration of Justice Proclamation 1902.

(3) In the case of an Asiatic who is in South Africa but outside this Colony, the officer in charge of the Immigration Department shall, as soon as the date has been fixed for the hearing of such appeal, send by post to the appellant at the address given upon his application for registration a temporary permit entitling him to enter and remain in the Colony until the appeal has been determined. If the appeal be dismissed, the said magistrate shall make an order in writing directing the appellant to be removed from the Colony, and every such order shall be deemed to be an order made under section *six* of the Immigrants Restriction Act 1907 or any amendment thereof.

(4) In the case of an adult Asiatic in the Colony who has not within a period prescribed by sub-section (2) of this section noted an appeal or whose appeal having been noted has not been proceeded with or has been dismissed, the said magistrate shall make an order in writing directing such Asiatic to be removed from the Colony, and every such order shall be deemed to be an order made under section *six* of the Immigrants Restriction Act 1907 or any amendment thereof.

\* For procedure in appeals, see Govt. Notice No. 1130 of 1908 (*Gazette*, 13/11/08).

\*7. Any adult Asiatic who, after such date or dates as may be notified by the Colonial Secretary in the *Gazette*, is found within the Colony and fails, upon such demand as is mentioned in section *nine* to produce a certificate of registration of which he is the lawful holder, may be arrested without warrant and brought before a resident or assistant resident magistrate and if he fails to satisfy such magistrate that he is the lawful holder of a certificate of registration or that the time within which he is required to make application for such certificate has not expired the magistrate shall, save as in the next succeeding section is provided, make an order in writing directing him to be removed from this Colony and every such order shall be deemed to be an order made under section *six* of the Immigrants Restriction Act 1907 or any amendment thereof.

Removal from Colony of Asiatics without certificates of registration.

8. If an adult Asiatic who has failed to make application for registration in accordance with the provisions of sub-section (1) of section *four* shall satisfy the magistrate before whom he is brought that such failure was due to some good and sufficient cause, the magistrate may, instead of making such order as aforesaid, direct such Asiatic forthwith to make application for registration within eight days, and if such Asiatic shall comply with such direction, his application shall be dealt with in all respects as if it had been made in accordance with the provisions of the said sub-section and all the provisions of this Act which would have applied if the application had been so made shall apply accordingly, but, if he shall fail to comply with such direction, the magistrate shall make an order for removal as aforesaid in respect of such Asiatic and any such order shall be deemed to be an order made under section *six* of the Immigrants Restriction Act 1907 or any amendment thereof.

Procedure if Asiatic fail to make application for registration within time prescribed.

### PART III.

#### GENERAL AND MISCELLANEOUS.

9. Every Asiatic who enters or is within this Colony shall, upon demand made upon him by any European member of a police force lawfully established therein or by any other European person authorised thereto by the Colonial Secretary, produce the certificate of registration of which he is the lawful holder, and shall also on like demand supply such particulars and furnish such means of identification as may be prescribed by regulation. Any Asiatic who fails upon lawful demand to produce such certificate shall, unless he is the lawful holder of a certificate of registration, be liable to be dealt with in manner mentioned in section *eight*.

Certificates to be produced on demand.

10. (1) If at any time any certificate of registration is lost or destroyed, the person to whom it was issued shall forthwith apply to the registrar to have the same renewed and the registrar shall, upon compliance by such person with

Lost and destroyed certificates.

\* See Govt. Notice No. 1172 of 1908 (*Gazette*, 20/11/08, p. 342), fixing date as 30th Nov., 1908.

such procedure as is prescribed by regulation and upon payment of a fee of five shillings, renew the certificate. Such fee shall be denoted by means of revenue stamps to be affixed to the application for renewal and shall be defaced by the said registrar.

(2) Any person into whose hands shall have come any such certificate shall, unless he is the person to whom it was issued, forthwith deliver or transmit the same as soon as may be to the Registrar of Asiatics, Pretoria.

11. ~~Every certificate of registration shall be accepted as conclusive evidence in all places that the lawful holder thereof is entitled to enter and reside in this Colony; provided that this section shall not apply to persons who have, under section five or six of the Immigrants Restriction Act 1907 or any amendment thereof, been removed from the Colony.~~

12. Whenever, in any prosecution or other proceeding under this Act, the age of any Asiatic is in question such Asiatic shall unless and until the contrary be proved be taken to be of the age which the registrar shall in any certificate issued under his hand certify to be in his opinion the apparent age of such Asiatic.

13. Any affidavit or sworn declaration which is required by regulation to be made by any person who makes an application for registration shall be exempt from stamp duty.

Exemption from stamp duty of affidavit or sworn declaration.

14. (1) No Asiatic shall obtain any trading licence under the Revenue Licences Ordinance 1905 or any amendment thereof or under any bye-law or regulation in force within the jurisdiction of a local authority, unless he produce to the person appointed to issue the licence a certificate of registration of which he is the lawful holder and either give his signature in English or supply such other or additional particulars or furnish such means of identification as the Colonial Secretary may either generally or in particular cases prescribe *ora certificate -- Act 30/36 § 6*

Restriction of issue of trading licences to Asiatics.

(2) Any trading licence issued under such Ordinance or under any such bye-law or regulation between the tenth day of February 1908 and the commencement of this Act to an Asiatic who made such application as is prescribed in subsection (1) (b) of section two of this Act shall, notwithstanding anything in section thirteen of Act No. 2 of 1907 contained, be deemed to have been lawfully issued.

(3) Section thirteen of Act No. 2 of 1907 shall be and is hereby repealed.

Offences relating to applications for registration and to registration certificates. *Rajabhai*

15. Any person who—  
(a) for the purpose of or in connection with an application for registration or for the purpose of obtaining a certificate of registration, commits any fraudulent act, or makes any false statement or false pretence;  
(b) forges or prior to the commencement of this Act has forged any document in the form set forth in the Schedule

to this Act or forges any certificate of registration or utters any such document or certificate knowing the same to be forged; or

(c) uses or attempts to use as a certificate of registration any such forged document or any such certificate of which he is not the lawful holder;

shall be guilty of an offence and liable to a fine not exceeding five hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding two years or to both such fine and imprisonment, and any person who incites to, or aids or abets any other person in, the commission of any such offence shall be liable to the like penalty.

16. Notwithstanding anything in the Immigrants Restriction Act 1907 or this Act contained, the Governor may approve the issue of a permit, in the form prescribed by regulation, authorising an Asiatic to enter and remain in the Colony for any period named in such permit, and after the expiry of such period the person in respect of whom such permit was issued shall be deemed to be a person not duly authorised to be in this Colony, and if found may be arrested without warrant and the provisions of section *six* of the Immigrants Restriction Act or any amendment thereof shall apply to such person, as if he were a person mentioned in paragraph (c) thereof.

Power to issue permits to Asiatics to remain in Colony for limited period.

\* 17. The Governor may from time to time make, alter, or rescind regulations for any of the following purposes:—

Power to make regulations.

(1) Prescribing the form of the register to be kept for the purposes of this Act.

(2) Prescribing the manner and form in which application shall be made for registration, the particulars to be supplied and the means of identification to be furnished by any applicant for the purpose of or in connection with such application.

(3) Prescribing the form of certificates of registration.

(4) Prescribing the particulars to be supplied and the means of identification to be furnished

(a) by any Asiatic upon such demand as is mentioned in section *nine*;

(b) by any Asiatic applying for the renewal of any certificate of registration which has been lost or destroyed.

†(5) Prescribing the procedure to be observed on or in connection with appeals to the magistrate mentioned in section *six*.

(6) Prescribing the form of permit to be issued under section *sixteen*.

(7) Generally for the better carrying out of the objects and purposes of this Act.

\* For regulations, see Govt. Notice No. 950 of 1908 (*Gazette*, 21/1/08, p. 1107).

† See Govt. Notice No. 1130 of 1908 (*Gazette*, 13/11/08), prescribing procedure *re* appeals.



General penalties.

18. Any Asiatic or the guardian of any Asiatic failing to comply with any requirement of this Act or of the regulations shall, except where otherwise specified, be liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Special powers to register transfer of certain fixed property.

19. Notwithstanding anything to the contrary in subsection (b) of Law No. 3 of 1885 as amended by Volksraad Resolution Article 1419 of the twelfth day of August 1886 the portion of Erf No. 373 Church Street Pretoria which was registered in the name of the late Aboobaker Amod and which at the commencement of this Act was registered in the name of Henry Salomon Leon Polak may be transferred into the name of the heirs of the said Aboobaker Amod.

Title and date of operation of Act.

\* 20. This Act may be cited for all purposes as the Asiatics Registration Amendment Act 1908 and shall not come into operation unless and until the Governor shall have declared by proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the Act and thereafter it shall come into operation on such date as the Governor shall by like proclamation declare.

SCHEDULE.

TRANSVAAL ASIATIC REGISTRATION CERTIFICATE.

Name in full.....  
 Race..... Age..... Height.....  
 Description.....  
 .....



Right Thumb Impression.

.....  
 Registrar of Asiatics.

Date of Issue .....

Holder's Signature } .....

Name of Wife..... Residence.....  
 SONS and MALE WARDS under the age of 16 years.

Names.	Age.	Residence.	Relationship to Guardian.

No alterations or endorsements are to be made on the face of this Certificate except by the Registrar of Asiatics.

\* See Proc. (Admn.) No. 81 of 1908 (*Gazette*, 18/9/08, p. 1001), notifying His Majesty's assent and proclaiming date of operation of Act as 21st September 1908.

Act No. 37 of 1908.] [Promulgated 2nd September, 1908.]

\* AN ACT

TO AMEND THE LAND AND AGRICULTURAL BANK ACT 1907.

Assented to 22nd August, 1908.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal, as follows:—

1. (1) In this Act the term "principal law" shall mean the Land and Agricultural Bank Act, 1907.

Interpretation of terms.

(2) For the purposes of the principal law and this Act; "farmer" shall mean a person who devotes his attention to farming in this Colony either exclusively or together with some profession, business, or other occupation;

"co-operative society" shall mean a society registered under the Co-operative Agricultural Societies Act 1908.

(3) Save as to the term "co-operative society", any term to which by the principal law a meaning has been assigned for the purposes thereof, shall, when used in this Act, have the same meaning.

2. Notwithstanding anything in section nine of the principal law contained, a cheque upon any banking account kept by the bank and signed by the manager and the accountant of the bank shall be deemed to be duly drawn without the countersignature of a member of the board.

Cheques signed by manager and accountant need not be countersigned by member of board.

3. Section *thirteen* of the principal law shall be and is hereby amended by the deletion of the word "three" from paragraph (c) thereof and by the substitution of the word "six" for the word so deleted.

Amendment of section *thirteen* of Act No. 26 of 1907.

4. Section *twenty* of the principal law shall be and is hereby amended by the deletion of paragraph (c) thereof and the substitution of the following new paragraph:—

Amendment of section *twenty* of Act No. 26 of 1907.

*For text see Act No. 26, 1907, section twenty.*

5. Section *twenty-one* of the principal law shall be and is hereby repealed and the following new section substituted therefor:—

Repeal of section *twenty-one* of Act No. 26 of 1907, and substitution of new provisions.

*For text see Act No. 26, 1907, section twenty-one.*

\* See Act No. 17 of 1909.

Amendment of section *twenty-two* of Act No. 26 of 1907.

6. Section *twenty-two* of the principal law shall be and is hereby amended by the addition immediately after the words "other than a mortgage or charge under this Act," of the words "or of Part II of Ordinance No. 38 of 1904."

Amendment of section *twenty-three* of Act No. 26 of 1907.

7. Section *twenty-three* of the principal law shall be and is hereby amended by the deletion whenever the same occurs in the said section of the word "person" and the substitution therefor of the word "farmer."

Repeal of sections *twenty-five*, *twenty-six*, and *twenty-seven* of Act No. 26 of 1907.

8. Sections *twenty-five*, *twenty-six*, and *twenty-seven* of the principal law shall be and are hereby repealed.

Interest on advances and times of repayment of principal and interest.

9. Upon application in form prescribed by the Board, advances may be made for a period of thirty years subject to the provisions and conditions following that is to say—

(1) For the period of five years next succeeding the date on which an advance is made, there shall be paid thereon half-yearly in advance to the bank by the mortgagor, interest at the rate of five pounds per cent. per annum. The half-yearly payment of interest shall be deducted from the full amount of the advance.

(2) After the expiry of the said period of five years, the advance, with interest at the rate aforesaid, shall be repaid to the bank by the mortgagor within a term of twenty-five years by half-yearly instalments in advance until the whole advance, with the interest thereon, has been repaid.

(3) Every half-yearly instalment shall consist partly of principal and partly of interest, but every such instalment, except the last, shall be at the rate of three pounds ten shillings for every hundred pounds of the advance.

(4) All such half-yearly instalments shall be calculated and paid according to the table set forth in the Schedule to this Act, showing the amounts of half-yearly instalments for every hundred pounds of the advance, how much of each and every half-yearly instalment is on account of principal and how much on account of interest, and the balance of principal owing to the mortgagor immediately after payment of each half-yearly instalment. A copy of such table shall be supplied to every mortgagor.

(5) The form of mortgage for securing any such advance shall be as prescribed by the Board.

Circumstances under which advance may be repaid before maturity.

10. (1) The mortgagor may, on the date on which the interest is payable and during the first five years after the advance was made, repay to the bank any sum, not being less than five pounds or a multiple of five pounds, in reduction of the principal. If the mortgagor elect to repay any sum or sums as aforesaid, prior to the date when interest is payable, no rebate of interest shall be allowed in respect of such payment.

(2) After the expiry of the said period of five years the mortgagor may, irrespective of the prescribed half-yearly instalments, from time to time pay to the bank any sum, not being less than five pounds or a multiple of five pounds, in reduction of the principal sum then due; provided that no such payment shall affect the prescribed half-yearly instalments or the obligation of the mortgagor in respect thereof, but the same shall be held and applied as hereinafter provided, unless the board shall otherwise in special cases determine.

(3) All such last-mentioned payments shall be credited with interest at the rate of three per cent. per annum with yearly rests until such payments, together with the accumulations of interest thereon, are equal to the balance of principal owing for the time being according to the said table, together with all other moneys (if any) owing under the mortgage, and thereupon such payments shall be set off against such principal and other moneys, and the mortgagor shall be entitled to a discharge of the mortgage on payment of the prescribed fees.

(4) Any advance may be paid out by the bank in instalments as improvements are being effected, or stock is being purchased, and interest on any such instalments shall be calculated from the date on which it was paid out.

11. If at any time in the opinion of the board any advance has not been applied for the purposes thereof, or has not been carefully and economically expended or in the event of the mortgagor dying, becoming insolvent or being sentenced to imprisonment without the option of a fine, the board may refuse to pay any further instalments of the proposed advance, and may at once call in the whole amount already advanced; thereupon the mortgagor shall forthwith repay such amount, and upon his default, the board shall have the same remedies for the recovery of the amount as are provided by the principal law as amended by this Act for the recovery of sums payable by a mortgagor.

*Advances to Co-operative Societies.*

12. Sections *twenty-nine, thirty, and thirty-one* of the principal law shall be and are hereby repealed.

13. *Repealed by Act No. 17, 1909, section four.*

14. *Repealed by Act No. 17, 1909, section four.*

15. (1) Section *thirty-two* of the principal law shall be and is hereby repealed.

Power to call up advance where same improperly applied.

Repeal of sections *twenty-nine, thirty, and thirty-one* of Act No. 26 of 1907.

Objects for which advances may be made to co-operative societies.

Advance to co-operative societies on produce.

Readjustment of loans.

(2) For the purpose of carrying out the objects and purposes of advances made under the principal law as amended by this Act, the following special provisions shall apply:—

(a) The rate of interest on any fixed loan advanced to any mortgagor prior to the coming into operation of this Act, shall on the date on which interest is payable on such loan, be reduced to five per cent. per annum so soon as he pays such interest, and the loan shall thereupon be treated as a fresh loan under section *nine* of this Act.

(b) Any mortgagor not being in arrear with any instalment or other payment under an instalment loan granted prior to the coming into operation of this Act, may at the date on which interest and instalment is payable on such loan claim to have such loan converted into a loan under section *nine* of this Act, and the balance then remaining unpaid shall be treated as a fresh loan, duly granted for a fresh term as from that time.

(c) The conversion shall be effected by memorandum of readjustment, which shall be executed by the bank and the mortgagor, and shall specify the amount of the fresh loan and the date as from which it is deemed to be granted.

(d) The memorandum of readjustment shall be noted by the Registrar of Deeds on the original and duplicate original bonds executed by the mortgagor in respect of the original loan, and it shall not be necessary to register a separate bond.

(e) From and after the execution of the memorandum of readjustment, such mortgage shall operate and be construed as applying to the fresh loan in lieu of the original loan, in the same manner in all respects and with the same priorities of security and otherwise, as if the mortgage had been originally in respect of the fresh loan.

(f) Whenever any part of an amount owing by a mortgagor to the bank by way of principal has been paid off, the board may, if the mortgagor is not in arrear with any interest due under the mortgage, consent to the release from the operation of the bond of so much of the property specified therein, as in the opinion of the board, will allow such margin of security as is mentioned in sub-section (1) of section *twenty-four* of the principal law to be maintained.

16. Section *thirty-seven* of the principal law shall be and is hereby amended by the deletion therefrom of the words “the members of the board.”

17. Section *thirty-nine* of the principal law shall be and is hereby repealed and the following new section substituted therefor:—

*For text see Act No. 26 of 1907, section thirty-nine.*

Amendment of section *thirty-seven* of Act No. 26 of 1907.

Repeal of section *thirty-nine* of Act No. 26 of 1907 and substitution of new provisions.

18. The eighth covenant set forth in the First Schedule to the principal law shall not apply to a farm mortgaged as security for a loan and used exclusively for stock farming.

Amendment  
of First  
Schedule  
of Act No. 26  
of 1907.

19. This Act may be cited for all purposes as the Land and Agricultural Bank Amendment Act 1908, shall come into operation on the date of its first publication as an Act in the *Gazette*, and shall be read as one with the principal law.

Title and date  
of operation  
of Act.

*SCHEDULE.*

Table of Prescribed Half-Yearly Instalments payable in Advance for every £100 (one hundred pounds) of the loan, at seven pounds per centum, namely, five pounds per centum for interest, and the balance in reduction of the capital, such half-yearly payments beginning at first half-year.

Half-year.	Prescribed Half-yearly Instalments.	APPORTIONED THUS.			Balance of Principal.
		On account of Interest at 5 per cent.	On account of Principal.		
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1st .. .. .	3 10 0	2 10 0	1 0 0	99 0 0	
2nd .. .. .	3 10 0	2 9 8	1 0 4	97 19 8	
3rd .. .. .	3 10 0	2 9 0	1 1 0	96 18 8	
4th .. .. .	3 10 0	2 8 4	1 1 8	95 17 0	
5th .. .. .	3 10 0	2 8 0	1 2 0	94 15 0	
6th .. .. .	3 10 0	2 7 4	1 2 8	93 12 4	
7th .. .. .	3 10 0	2 6 8	1 3 4	92 9 0	
8th .. .. .	3 10 0	2 6 4	1 3 8	91 5 4	
9th .. .. .	3 10 0	2 5 8	1 4 4	90 1 0	
10th .. .. .	3 10 0	2 5 0	1 5 0	88 16 0	
11th .. .. .	3 10 0	2 4 4	1 5 8	87 10 4	
12th .. .. .	3 10 0	2 3 8	1 6 4	86 4 0	
13th .. .. .	3 10 0	2 3 0	1 7 0	84 17 0	
14th .. .. .	3 10 0	2 2 8	1 7 4	83 9 8	
15th .. .. .	3 10 0	2 1 8	1 8 4	82 1 4	
16th .. .. .	3 10 0	2 1 0	1 9 0	80 12 4	
17th .. .. .	3 10 0	2 0 4	1 9 8	79 2 8	
18th .. .. .	3 10 0	1 19 8	1 10 4	77 12 4	
19th .. .. .	3 10 0	1 18 8	1 11 4	76 1 0	
20th .. .. .	3 10 0	1 18 0	1 12 0	74 9 0	
21st .. .. .	3 10 0	1 17 4	1 12 8	72 16 4	
22nd .. .. .	3 10 0	1 16 4	1 13 8	71 2 8	
23rd .. .. .	3 10 0	1 15 8	1 14 4	69 8 4	
24th .. .. .	3 10 0	1 14 8	1 15 4	67 13 0	
25th .. .. .	3 10 0	1 14 0	1 16 0	65 17 0	
26th .. .. .	3 10 0	1 13 0	1 17 0	64 0 0	
27th .. .. .	3 10 0	1 12 0	1 18 0	62 2 0	
28th .. .. .	3 10 0	1 11 0	1 19 0	60 3 0	
29th .. .. .	3 10 0	1 10 0	2 0 0	58 3 0	
30th .. .. .	3 10 0	1 9 0	2 1 0	56 2 0	
31st .. .. .	3 10 0	1 8 0	2 2 0	54 0 0	
32nd .. .. .	3 10 0	1 7 0	2 3 0	51 17 0	
33rd .. .. .	3 10 0	1 6 0	2 4 0	49 13 0	
34th .. .. .	3 10 0	1 5 0	2 5 0	47 8 0	
35th .. .. .	3 10 0	1 3 8	2 6 4	45 1 8	
36th .. .. .	3 10 0	1 2 8	2 7 4	42 14 4	
37th .. .. .	3 10 0	1 1 4	2 8 8	40 5 8	
38th .. .. .	3 10 0	1 0 0	2 10 0	37 15 8	
39th .. .. .	3 10 0	0 19 0	2 11 0	35 4 8	
40th .. .. .	3 10 0	0 17 8	2 12 4	32 12 4	
41st .. .. .	3 10 0	0 16 4	2 13 8	29 18 8	
42nd .. .. .	3 10 0	0 15 0	2 15 0	27 3 8	
43rd .. .. .	3 10 0	0 13 8	2 16 4	24 7 4	
44th .. .. .	3 10 0	0 12 0	2 18 0	21 9 4	
45th .. .. .	3 10 0	0 10 8	2 19 4	18 10 0	
46th .. .. .	3 10 0	0 9 4	3 0 8	15 9 4	
47th .. .. .	3 10 0	0 7 8	3 2 4	12 7 0	
48th .. .. .	3 10 0	0 6 0	3 4 0	9 3 0	
49th .. .. .	3 10 0	0 4 8	3 5 4	5 17 8	
50th .. .. .	6 0 8	0 3 0	5 17 8	—	

Act No. 38 of 1908.] [Promulgated 2nd September. 1908.]

\* AN ACT

TO AMEND THE IMMIGRANTS RESTRICTION ACT 1907.

Assented to 22nd August, 1908.]

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Section *two* of the Immigrants Restriction Act 1907 shall be and is hereby amended by the deletion of paragraph (*h*) of the classes of persons excluded from the definition of "prohibited immigrant," and the substitution for such paragraph of the following new paragraph (*h*):—

Amendment of section *two* of Act No. 15 of 1907 as to definition of "prohibited immigrant."

"(*h*) Descendants of the aboriginal races of Africa, south of the Equator, who, entering and remaining in this Colony as unskilled labourers, do not fall within subsections (3), (4), (5), (6), (7) and (8) of the definition of 'prohibited immigrant', unless they so entered this Colony in contravention of the laws of the Colony or territory of their country of origin, or unless, having entered this Colony as unskilled labourers without having contravened those laws, they remain therein in contravention of those laws".

2. Section *six* of the Immigrants Restriction Act 1907 shall be and is hereby amended by the deletion of paragraph (*b*) and both provisoes of the said section and by the addition at the end of paragraph (*c*) of the said section of the words:

Amendment of section *six* of Act No. 15 of 1907.

"or having complied with the terms of such order subsequently re-enters this Colony without such written authority as may be prescribed by regulation".

3. This Act may be cited for all purposes as the Immigrants Restriction Amendment Act 1908 and shall not come into operation unless and until the Governor shall have declared by proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the Act, and thereafter it shall take effect on such date as the Governor may by like proclamation declare.

Title and date of operation of Act.

\* This Act has not as yet been allowed.



**1909.**

Act No. 1 of 1909.]

[Promulgated 2<sup>nd</sup> July, 1909.

## AN ACT

TO APPLY A FURTHER SUM NOT EXCEEDING SIX HUNDRED AND FORTY-FIVE THOUSAND TWO HUNDRED AND FIFTY POUNDS STERLING FOR THE SERVICE OF THE YEAR ENDING THE THIRTIETH DAY OF JUNE 1909.

(Assented to 24th June, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Public revenue charged with £645,250 for the year ending 30th June 1909.

Not to be applied otherwise than as granted.

Appropriation for Extraordinary Expenditure not to lapse until services completed.

The Treasurer to make payments under warrant of the Governor.

Title and date of operation of Act.

1. The public revenue of this Colony is hereby charged towards the service of the year ending on the thirtieth day of June 1909 with a further sum of six hundred and forty-five thousand two hundred and fifty pounds sterling in addition to the several sums provided for by the Appropriation (Part 1908-1909) Act 1908 and the Appropriation (1908-1909) Act 1908.

2. The money granted by the Act shall not be applied to any use, intent, or purpose, other than the particular services specified in the Schedule to this Act.

3. No appropriation granted by this Act for any service described as Extraordinary Expenditure in the Schedule to this Act, shall lapse until the service in respect of which such appropriation was made has been completed.

4. The issue and payment from time to time by the Colonial Treasurer by warrant under the hand of the Governor of such sums of money as were or may be required for the purposes hereinbefore mentioned (not exceeding in the whole the sums respectively in that behalf specified) shall be deemed to have been or to be proper issues, and the Colonial Treasurer shall in his accounts be allowed credit for all sums paid by him in pursuance of any such warrant; and the receipts of the persons, to whom such sums shall have been so paid, shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

5. This Act may be cited for all purposes as the Additional Appropriation (1908-1909) Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.

## SCHEDULE.

## ORDINARY EXPENDITURE.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
5	Joint Parliamentary Expenses	Clerk of the Legislative Assembly	£1,400
11	Volunteers ... ..	Assistant Colonial Secretary...	1,700
22	Auditor-General ... ..	Auditor-General ... ..	1,850
23	Printing and Stationery	Government Printer ... ..	10,300
27	Pensions, Allowances, and Gratuities	Secretary to the Treasury ...	13,000
28	Public Debt Services ...	" " " ...	43,000
29	Miscellaneous ... ..	" " " ...	16,000
31	Surveys ... ..	Surveyor-General " ... ..	2,250
Total Ordinary Expenditure			<u>£89,500</u>

## EXTRAORDINARY EXPENDITURE.

Letter No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
A.	Extirpation of Cattle Disease	Director of Agriculture...	£35,000
B.	General Telephone Extension	Postmaster-General ...	7,500
C.	Purchase of Cullinan Diamond	Secretary to the Treasury	43,350
E.	Adjustment of South African Constabulary Works Loan	" " "	82,900
F.	Arrear Government Contributions (with interest) to Pensions Fund	" " "	190,000
G.	Purchase of hypothecated properties by the Investment Board and on account of the Resettlement Loan Fund	Secretary for Lands ...	22,000
H.	Adjustment of Civil Servants House Loan Fund	Secretary for Public Works	175,000
Total Extraordinary Expenditure			<u>£555,750</u>

## SUMMARY.

Ordinary Expenditure	...	...	...	£89,500
Extraordinary Expenditure	...	...	...	555,750
Total	...	...	...	<u>£645,250</u>

Act No. 2 of 1909.]

[Promulgated 2nd July, 1909.]

## AN ACT

TO AMEND THE LAW RELATING TO THE PAYMENT OF ERF TAX  
AND FOR OTHER PURPOSES.

(Assented to 28th June, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

Abolition of erf tax in certain scheduled municipalities.

1. From and after the coming into operation of this Act the tax payable under article *five* of Law No. 4 of 1899 in respect of erven or portions of erven within the municipalities mentioned in the Schedule to this Act shall be abolished.

Suspension of payment of erf tax in certain other townships till local authority constituted for the same.

2. (1) From and after the coming into operation of this Act no tax shall be payable under article *five* of Law No. 4 of 1899 in respect of erven or portions of erven in the township of Balfour (formerly known as McHattiesberg), the township of Bloemhof, the township of Dullstroom, the township of Ohrigstad, the township of Geysdorp, the township of Meyerton, or the township of Komati Poort, save as in sub-section (2) is provided.

(2) As soon as the circumstances described in section *twelve* of the Townships Act 1907 have arisen in respect of any one of those townships the provisions of that section shall apply in respect of that township.

Land tax not to be payable in respect of lots in townships.

3. Notwithstanding anything contained in Law No. 4 of 1899 or in any law in force relating to the payment of land taxes in respect of farms no lot in any township shall be deemed to be a portion of a farm so as to render the owner liable to pay land tax in respect of that lot.

Saving as to liability for past arrears.

4. Nothing in section *one, two, or three* of this Act contained shall be deemed to exempt any owner of land therein described from liability to pay erf tax or land tax (as the case may be) due in respect of that land at any time prior to the thirty-first day of December 1909 and unpaid thereafter.

Erf tax collected within jurisdiction of Health Committees to be paid over to same.

5. The Colonial Treasurer shall from time to time cause to be paid over to any Health Committee constituted under section *one* of Ordinance No. 3 of 1905 as amended by section *one* of Ordinance No. 7 of 1906, all sums collected as erf tax in respect of erven or portions of erven within the area of jurisdiction of that committee after the coming into operation of this Act.

Title and date of operation of Act.

6. This Act may be cited for all purposes as the Taxation of Land Amendment Act 1909 and shall come into operation on the first day of January, 1910.

*SCHEDULE.*MUNICIPALITIES REFERRED TO IN SECTION *One.*

Heidelberg.	Lydenburg.
Klerksdorp.	Nylstroom.
Krugersdorp.	Rustenburg.
Middelburg.	Springs.
Pietersburg.	Ventersdorp.
Potchefstroom.	Vereeniging.
Standerton.	Volksrust.
Carolina.	Wakkerstroom.
Christiana.	Zeerust.
Ermelo.	

[Promulgated 2nd July, 1909.

AN ACT

TO FURTHER AMEND THE EDUCATION ACT 1907.

(Assented to 28th June, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Amendment  
of section *five*  
of Act No. 25  
of 1907.

1. Section *five* of the Education Act 1907 (hereinafter referred to as the principal law) shall be and is hereby amended by the deletion therefrom of paragraph (*b*) and the substitution of the following new paragraph:—

*For text see Act No. 25, 1907, section five (b).*  
and by the addition immediately after paragraph (*d*) of that section of the following new paragraph:—

*For text see Act No. 25, 1907, section five (e).*  
Paragraph (*e*) of that section shall become paragraph (*f*).

Amendment  
of section *six*  
of Act No. 25  
of 1907.

2. Section *six* of the principal law shall be and is hereby amended by the insertion in the first line of sub-section (3) thereof immediately after the word "maintenance" of the words "or transport".

Amendment  
of section *nine*  
of Act No. 25  
of 1907.

3. Section *nine* of the principal law shall be and is hereby amended by the addition thereto of the following words:—  
*For text see Act No. 25, 1907, section nine.*

Amendment  
of section  
*fourteen* of  
Act No. 25 of  
1907.

4. Section *fourteen* of the principal law shall be and is hereby amended by the deletion from sub-section (1) thereof of the words "not less than seven days' notice shall be given of any meeting" and by the substitution for those words of the words "reasonable notice of every meeting of the Council shall be given".

Amendment  
of section  
*thirty-eight*  
of Act No. 25  
of 1907 and  
section *one* of  
Act No. 28 of  
1908 so as to  
enable school  
districts to be  
coterminous  
with one or  
more polling  
districts.

5. Notwithstanding anything contained in section *thirty-eight* of or the *Second* Schedule to the principal law or in section *one* of Act No. 28 of 1908, it shall not be necessary for a school district to be coterminous with one or more electoral divisions of the Colony provided it is coterminous with one or more polling districts of such electoral divisions, and the powers of the said sections may be exercised so as to constitute school districts coterminous with one or more such polling districts.

6. Section *fifty-seven* of the principal law shall be and is hereby amended by the addition immediately after the word "institution" in the third line of sub-section (2) of the words "or any group of schools, classes, or institutions", and by the further addition immediately after the word "institution" in the last line of that sub-section, of the words "or group of schools, classes, or institutions".

Amendment of section *fifty-seven* of Act No. 25 of 1907.

7. Section *fifty-nine* of the principal law shall be and is hereby amended by the addition of the following words at the end of that section—

Amendment of section *fifty-nine* of Act No. 25 of 1907.

*For text see Act No. 25, 1907, section fifty-nine.*

8. Section *seventy* of the principal law shall be and is hereby repealed.

Repeal of section *seventy* of Act No. 25 of 1907.

9. Section *seventy-nine* of the principal law shall be and is hereby amended by the addition immediately after the word "shall" in the fifth line thereof of the words "unless he is a substitute for a teacher who is on leave of absence".

Amendment of section *seventy-nine* of Act No. 25 of 1907.

10. Anything to the contrary notwithstanding in the principal law or any amendment thereof, the duty of accounting for and the power of controlling all such moneys as are described in section *eighty-five* of that law shall be vested in the officer named in the Schedule to any Appropriation Act as Accounting Officer for the Education Vote.

Financial.

11. Section *ninety* of the principal law shall be and is hereby amended by the addition to sub-section (1) of the following new paragraph :—

Amendment of section *ninety* of Act No. 25 of 1907.

*For text see Act No. 25, 1907, section ninety (1) (o).*

and by the addition of the following new sub-section (3) :

*For text see Act No. 25, 1907, section ninety (3).*

12. This Act may be cited for all purposes as the Education Act Further Amendment Act 1909, shall come into operation on the date of its first publication as an Act in the *Gazette*, and shall be read as one with the principal law or any amendment thereof.

Title and date of operation of Act.

Act No. 4 of 1909.]

[Promulgated 2nd July, 1909.]

AN ACT

TO AMEND THE OPIUM TRADE REGULATION ORDINANCE 1906 (No. 25 OF 1906) AND TO FURTHER REGULATE THE PURCHASE, SALE AND POSSESSION OF OPIUM.

(Assented to 28th June, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. (1) Section *eight* of the Opium Trade Regulation Ordinance 1906 (hereinafter referred to as the principal law) shall be and is hereby repealed, but any reference to that section in any unrepealed provision of the principal law shall be deemed a reference to this section or to section *two* of this Act.

(2) During a period of six months immediately succeeding the date of the promulgation of this Act in the *Gazette*, but not afterwards, any district surgeon may, in his discretion, grant to a person residing in his district

(a) who, in his opinion, acquired the habit of opium smoking or opium consumption prior to that date ; and

(b) whose health would, in his opinion, be detrimentally affected by an immediate discontinuance of that habit ;

a written permit to possess opium or extract of opium. The quantity in respect of which the permit is granted shall be specified therein and shall not exceed four ounces for one calendar month.

(3) No such permit shall be granted unless the person aforesaid gives his full name and address and impresses upon the permit and upon the district surgeon's records his digit prints.

(4) Any such permit shall be an authority to any registered chemist and druggist to sell to the person to whom the permit was granted the quantity of opium or extract of opium named therein or, as the case may be, the remainder of the quantity not yet supplied thereunder, and shall further be an authority to that person to be in possession of such quantity or remainder ; but no opium shall be sold or supplied upon the authority of such permit unless that person furnishes to the seller or supplier his full name and address and impresses in the records which the seller or supplier is required under the principal law to keep, his digit prints. The seller or supplier shall endorse upon the permit the date of the sale or supply, the quantity sold or supplied, and his signature.

Repeal of section *eight* of Ordinance No. 25 of 1906 and substitution of new provisions.

(5) A fee of two shillings and sixpence shall be payable to the district surgeon for every such permit. That fee shall be paid by means of stamps affixed to the permit and those stamps shall be duly defaced by the district surgeon.

2. Opium or extract of opium may, after the promulgation of this Act, be sold by a registered chemist and druggist when prescribed by a registered medical practitioner as an incidental ingredient in any medicine, or when it occurs as an incidental ingredient in any recognised pharmacopoeial preparation.

Sale of opium for medicinal purposes.

3. (1) Opium or extract of opium may, after the promulgation of this Act, also be sold or supplied for strictly medicinal purposes by a registered chemist and druggist upon a prescription of a registered medical practitioner. Every prescription of a medical practitioner issued under this sub-section which prescribes opium or extract of opium for medicinal purposes shall state

Sale of opium for medicinal purposes, and duties of persons selling same defined.

- (a) the quantity which may be sold or supplied thereon ;
- (b) the name and address of the person for whom it is prescribed ;
- (c) the full name and address of the medical practitioner.

(2) Every person selling or supplying opium or extract of opium under the provisions of sub-section (1) hereof shall retain the prescription upon which it was sold or supplied and any such person selling or supplying opium or extract of opium who shall fail so to retain the prescription shall be liable on conviction to the penalties mentioned in section *six* of the principal law.

(3) The provisions of section *five* of the principal law relative to the inspection of books and of section *six* thereof relative to the failure to produce books for inspection shall *mutatis mutandis* apply for the purpose of enabling prescriptions mentioned in this section to be inspected.

(4) Save as in sections *one* and *two* and in this section provided, no person shall sell or supply opium or extract of opium, anything in the Medical Dental and Pharmacy Ordinance 1904 notwithstanding.

(5) In any case in which the Medical Officer of Health for the Transvaal on information supplied has reason to suspect that a medical practitioner has prescribed opium or extract of opium in accordance with the provisions of this section for other than strictly medicinal purposes or in an excessive quantity, he shall report the circumstances of the case in terms of section *forty-four* of the Medical Dental and Pharmacy Ordinance 1904 to the Transvaal Medical Council for inquiry, and the Council may, on proof of the facts, recommend that the name of such medical practitioner be erased from the register of medical practitioners and that his certificate be withdrawn and cancelled.

4. (1) Save as in the principal law or in this Act is otherwise provided, no person shall be in possession of opium or extract of opium (whether in solid or in liquid form) or of any pipes, receptacles, or materials habitually used for opium smoking or opium consumption, nor shall any person keep any premises for opium smoking or opium consumption.

Prohibition of possession save as provided by Ordinance No. 25 of 1906 or this Act.



(2) Any person who contravenes section *seven* of the principal law or this section shall be liable to the penalties which may be imposed under that section, and if he be not naturalized or domiciled in this Colony, shall be liable, in addition, to be removed therefrom by warrant under the hand of the Colonial Secretary. If at any time after being so removed he return to this Colony without the written permission of the Colonial Secretary he shall be guilty of an offence and liable on conviction to imprisonment with or without hard labour without the option of a fine, for a period not exceeding one year, and at the expiration of his sentence to be again removed from the Colony.

Destruction in Ordinance No. 25 of 1906 to that Ordinance to include reference to it as amended by this Act.

5. All opium or extract of opium forfeited under the provisions of the principal law or this Act shall be burnt unless the Attorney-General otherwise directs in the presence of a commissioned officer of police, who shall transmit to the Attorney-General a certificate under his hand stating the circumstances under which the forfeiture took place, the amount forfeited, and other particulars showing his compliance with this section.

Rewards to informers.

6. The Colonial Treasurer may pay out of the public revenue of this Colony to a person (other than an officer in the Public or Railway Service) on whose information a charge is laid resulting in a conviction under the principal law or this Act, a sum not exceeding twenty pounds.

Reference in Ordinance No. 25 of 1906 to that Ordinance to include reference to it as amended by this Act.

7. Whenever in the principal law the expression "this Ordinance" is used that expression shall be deemed to mean the principal law as amended by this Act.

Title and date of operation of Act.

8. This Act may be cited for all purposes as the Opium Trade Regulation Amendment Act 1909, shall be read as one with the principal law, and shall come into operation on the date of its promulgation as an Act in the *Gazette*.

Act No. 5 of 1909.]

[Promulgated 2nd July, 1909.]

AN ACT

TO FURTHER AMEND THE MEDICAL DENTAL AND PHARMACY  
ORDINANCE 1904 (ORDINANCE NO. 29 OF 1904).

(Assented to 28th June, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with  
the advice and consent of the Legislative Council and Legislative  
Assembly of the Transvaal at follows :—

ELECTION OF MEDICAL COUNCIL AND PHARMACY BOARD.

1. (1) Section *sixteen* of the Medical Dental and Pharmacy  
Ordinance 1904 (hereinafter referred to as the principal law) shall  
be and is hereby repealed; but the repeal of that section shall  
not take effect until the publication in the *Gazette* of regulations  
described in this section.

Repeal of  
section *sixteen*  
of Ordinance  
No. 29 of  
1904, from  
the date of the  
publication of  
regulations as  
to the conduct  
of elections  
of Medical  
Council or  
Pharmacy  
Board.

\* (2) The Governor-in-Council may from time to time make,  
alter, or rescind regulations (not inconsistent with any unrepealed  
provision of the principal law) prescribing the manner in which  
all future elections of the Transvaal Medical Council and of the  
Transvaal Pharmacy Board shall be conducted, including the  
manner and form of nomination of candidates for election, the  
manner and form in which votes shall be recorded for those  
candidates and counted, and the mode of ascertaining and declar-  
ing result. Penalties of fine or imprisonment for a contraven-  
tion of those regulations may be prescribed not exceeding, in the  
case of a fine, fifty pounds, or, in case of imprisonment, six  
months with or without hard labour.

(3) All such regulations or any alteration or rescission  
thereof shall within seven days after the publication as aforesaid  
be laid upon the tables of Parliament, if Parliament be then in  
Session, or if it be not then in Session, within seven days after  
the commencement of its next ensuing session.

ADMISSION OF MEDICAL PRACTITIONERS AND DENTISTS HOLDING  
FOREIGN DIPLOMAS.

2. (1) Anything to the contrary notwithstanding in section  
*eighteen* or *nineteen* of the principal law, a registration certificate  
entitling the holder to practise as a medical practitioner or  
dentist may, upon the recommendation of the Transvaal Medical  
Council, be granted to any person, being a British subject born  
or domiciled in any Colony or Territory of British South Africa,  
who has proceeded outside South Africa for the prosecution of his  
studies and has obtained the degree, diploma or certificate after  
examination by any such University or State Examining Board as  
is described in the next succeeding section, which entitles him

Grant of  
registration  
certificates  
as medical  
practitioners  
and dentists  
to British  
South  
Africans who  
have studied  
and obtained  
diplomas  
from certain  
foreign  
Universities  
or State  
Examining  
Boards.

\* For regulations see Govt. Notice No. 1235 of 1909 (*Gazette*, 29/10/09).

*Medical Dental and Pharmacy  
Further Amendment.*

A.D. 1909.]

[Act No. 5.]

as regards professional qualifications to practise as a medical practitioner or dentist in the country in which that University or State Examining Board is situate.

(2) The provisions of the said section *eighteen* relative to the payment of a fee of ten pounds, to the submission of the degree, certificate or diploma, and to the proof of identity and good character, shall apply in respect of a grant of a registration certificate under this section.

(3) The provisions of this section shall come into operation on the date of the first publication of this Act as an Act in the *Gazette*.

Registration upon certificates etc. on examinations of equal standard with examinations prescribed by British Medical Council.

+ 3. The Governor-in-Council may from time to time prescribe that the degree, diploma, or certificate granted after examination by any University or State Examining Board whose curriculum and standard of examination required for such degree, diploma, or certificate is not lower than that prescribed by the General Council of Medical Education and Registration of the United Kingdom, shall entitle the holder thereof, being such a person as is described in the last preceding section, to make application for registration as a medical practitioner or dentist in this Colony.

Title of Act.

4. This Act may be cited for all purposes as the Medical Dental and Pharmacy Further Amendment Act 1909 and shall be read as one with the principal law or any amendment thereof.

Act No. 6 of 1909.]

[Promulgated 2nd July, 1909.]

## AN ACT

TO REGULATE THE IMPORTATION OF BEES, HONEY, AND BEESWAX  
INTO THIS COLONY.

(Assented to 29th June, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. In this Act, unless inconsistent with the context
- “department” shall mean the Department of Agriculture;
  - “Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice and consent of the Executive Council thereof;
  - “honey” shall include both honey in combs and extracted honey;
  - “regulation” shall mean a regulation made under section four.

Interpretation of terms.

2. From and after the coming into operation of this Act no person shall import or cause to be imported into this Colony
- (a) from any place whatever, bees, without special permission of the department issued in accordance with regulation;
  - (b) from any place outside South Africa, honey or beeswax;
  - (c) from any place outside South Africa, used beehives or used beehive accessories or appliances or anything which has been used to contain or manipulate bees or beeswax.

Prohibitions as to importation.

- \*3. Any officer of the department generally or specially authorized thereto by the Governor, may

- (a) inspect any consignment of bees imported under the permission aforesaid;
- (b) inspect any consignment reasonably suspected of containing anything imported in contravention of this Act or the regulations;
- (c) inspect any apiary or place where bees are kept;
- (d) inspect any honey or beeswax which is intended for sale;
- (e) cause to be cleaned or disinfected or destroyed any apiary or place where bees are kept if disease is found to exist therein;
- (f) cause to be destroyed any bees, honey, or beeswax imported in contravention of this Act or the regulations or found to be affected with disease.

Powers of inspection disinfection and destruction by officer of the department.

\* For regulations see Govt. Notice No. 1462 of 1909 (*Gazette*, 31/12/09, Inspection of Apiaries).

Regulations.

†4. (1) The Governor may from time to time make, alter, or rescind regulations not inconsistent with this Act, prescribing

(a) the form and the conditions of application for and issue of permissions under this Act to import bees, the particulars to be stated in such application and the officers of the department by whom such permissions shall be issued ;

(b) the conditions of importation of bees, honey, and bees-wax into this Colony ;

(c) the mode of cleaning or disinfecting or destroying apiaries and places where bees are kept ;

and generally for the better carrying out of the objects and purposes of this Act.

(2) All such regulations and any alteration or rescission thereof shall be of force and effect on publication in the *Gazette*.

(3) All such regulations or any alteration or rescission thereof shall, within seven days after the publication, be laid on the tables of both Houses of Parliament, if Parliament be then in Session, or, if it be not then in Session, within seven days after the commencement of its next ensuing Session.

Penalties.

5. Any person who shall contravene any provision of this Act or the regulations shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and such imprisonment.

Inapplicability of Act where reciprocal legislation exists in other Colonies or Territories of South Africa.

\*6. (1) The Governor may from time to time by proclamation in the *Gazette* declare that paragraph (a) of section two of this Act shall not apply in respect of the importation from any Colony or Territory in South Africa of bees native of that Colony or Territory, if therein a statute is in force prohibiting, under a penalty not less than is mentioned in the last preceding section, the importation of bees (except under special permission) from any place into that Colony or Territory:

(2) If disease exists amongst bees in any Colony or Territory in respect of which the powers mentioned in sub-section (1) have been exercised, the Governor may revoke any such proclamation and thereupon the provisions of paragraph (a) of section two shall apply in respect of that Colony or Territory.

(3) If disease exists amongst bees in any colony or territory in South Africa, the Governor may by Proclamation in the *Gazette* extend the prohibitions contained in paragraphs (b) and (c) of section one in respect of importations from that Colony or Territory and until that Proclamation is withdrawn, those paragraphs shall be read as if the words "outside South Africa" were not contained therein.

Title and date of operation of Act.

7. This Act may be cited for all purposes as the Importation of Bees Regulation Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*. ‡

† For importation regulations see Govt. Notice No. 1463 of 1909 (*Gazette*, 31/12/09).

\* Sec. 2 (a) not to apply to importation from Basutoland, Swaziland, and Bechuanaland Protectorate of bees native to that territory ; see Proc. (Admn.) No. 43 of 1910.

‡ Put in force from 15th December, 1909, by Proc. (Admn.) No. 95 of 1909.

Act No. 7 of 1909.]

[Promulgated 2nd July, 1909.

## AN ACT

TO AMEND THE IRRIGATION ACT 1908 (ACT NO. 27 OF 1908).

(Assented to 28th June, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Any riparian proprietor (as in the Irrigation Act 1908 defined) who has the right to use the water of a public stream shall be deemed for the purposes of the said Act or any amendment thereof to have that right at any point higher up or lower down the course of that stream than the point at which the stream reaches his riparian farm, provided that he shall not thereby obtain the use of a larger quantity of water than he would have obtained if he had taken the use of the water at the last-named point.

Where right to use water of a public stream begins.

2. This Act may be cited for all purposes as the Irrigation Act Amendment Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.

Title and date of operation of Act.

Act No. 8 of 1909.]

[Promulgated 2nd July, 1909.

## AN ACT

TO AMEND THE LAW RELATING TO INQUESTS AND OTHER ENQUIRIES AS TO DEATHS FROM NON-NATURAL CAUSES.

(Assented to 29th June, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

## PRELIMINARY.

1. The Inquests Proclamation 1901 shall be and is hereby repealed; provided that the said Proclamation shall, notwithstanding its repeal by this section, be deemed to remain in force for the purposes of those provisions of the Workmen's Compensation Act 1907 to which, immediately before the commencement of this Act, the said Proclamation was applicable, and the said Proclamation shall continue to be deemed, for those purposes, the law referred to in section six of the said Workmen's Compensation Act; provided further that the said Proclamation shall also continue in force for the purposes of such inquests as are referred to in Ordinance No. 6 of 1906 or any other law for the time being regulating prisons and reformatories and the provisions of this Act shall not apply in respect of inquests on the bodies of persons detained in prisons and reformatories.

2. In this Act, unless inconsistent with the context
- “imprisonment” shall mean imprisonment with or without hard labour as the court which passes sentence may direct;
  - “magistrate” shall mean a resident or assistant resident magistrate, and shall include also any civil or criminal magistrate of the district of Johannesburg and the person holding the office known as inspecting magistrate;
  - “medical practitioner” shall mean any person duly registered as such under any law of this Colony relating to the registration of medical practitioners;
  - “policeman” shall mean a European constable, non-commissioned officer, or commissioned officer of the police force established under the Transvaal Police Act 1908 or any amendment thereof;
  - “public prosecutor” shall, as used in reference to an occurrence mentioned in this Act, mean the public prosecutor

Repeal of  
Proc. (Trans.)  
No. 10 of  
1901.

Interpreta-  
tion of terms.

attached to the court of resident magistrate of the district or sub-district in which the occurrence took place, and, in the case of a court to which more than one public prosecutor is attached, shall mean the senior public prosecutor attached to that court.

#### REPORTS, EXAMINATIONS, AND ENQUIRIES AS TO NON-NATURAL DEATHS.

3. (1) It shall be the duty of every person
- (a) who shall find the dead body of a person who appears to have come by his death from violence or otherwise than from natural causes; or
  - (b) to whom the knowledge of any such death shall come; or
  - (c) to whom any such death shall be reported;

Duty of persons finding bodies etc. to report to police.

to notify as soon as possible the finding, knowledge, or report, together with any other facts in connection therewith which are known to him, to the person in charge of the nearest police station or police post or to a field cornet or justice of the peace, who shall forthwith cause the notification to be transmitted to the nearest police station or police post.

(2) No person, other than a medical practitioner, shall remove, disturb, or touch any human dead body found by him or any other person if the death appears to have been due to violence or to causes other than natural causes, until the body shall have been viewed by a policeman.

4. (1) Every policeman, whether notice of such death has been given under the last preceding section or whether he has heard of it in any other manner, shall enquire into the circumstances and causes of the death; and shall transmit a report thereof in writing, verified by affidavit, to the public prosecutor. In that report he shall state the facts found by him and any conclusion at which he has arrived upon those facts and shall annex to the report any documents, relevant to the matter, which are in his possession.

Duties of police on receipt of report or becoming acquainted with fact of non-natural death.

(2) The public prosecutor may cause the dead body to be examined by a medical practitioner who shall, if possible, be the district surgeon, and may, if he has grounds for suspecting that the death was caused by an act or omission of a criminal nature, issue an order in writing that the dead body, if interred, be disinterred for examination by such medical practitioner.

5. A magistrate shall, whenever directed so to do by the Attorney-General, hold a public enquiry as to the circumstances and causes of any such death as is hereinbefore described, and report thereon to the Attorney-General.

Enquiries by magistrates.

6. (1) Notwithstanding anything in this Act contained, any enquiry held by an inspector of mines or inspector of machinery in accordance with Ordinance No. 54 of 1903\* or any amendment thereof or any regulations made thereunder, as to an accident occurring at or upon any mine or works and causing death, shall be a sufficient examination for the purposes of this Act, unless the Attorney-General otherwise directs.

Special provisions as to accidents upon mines.

\* See Act No. 32 of 1909 (not yet in force).



(2) Every inspector of mines or inspector of machinery holding such an enquiry shall transmit to the public prosecutor, as soon as may be, a certified copy of the records of the enquiry and of his report thereon, and shall in every case append to that copy a statement of opinion whether or not the death was due to an act or omission of a criminal nature or contravention of a statute or statutory regulation, on the part of any person, and, if so, on whose part.

#### MISCELLANEOUS.

Powers of officers as to examination of persons on oath and production of documents implements.

7. (1) Every magistrate or inspector of mines or inspector of machinery required to hold an enquiry mentioned in this Act may put any person upon oath in relation to the subject of the enquiry and may administer an oath accordingly. Every such enquiry shall be conducted by a *viva voce* examination of witnesses.

(2) Every magistrate, or such inspector as aforesaid, may demand for inspection, or the production of, any documents, implements, weapons, or anything whatsoever which a magistrate or inspector has reason to believe will afford evidence relevant to the subject of an enquiry and, if the demand be not complied with, may, without any warrant, cause entry to be made upon any premises and the thing required to be searched for and seized.

(3) If any person refuses to answer any question put to him by a magistrate or inspector holding an enquiry mentioned in this Act or fails to comply with any demand made under subsection (2), or wilfully insults the person holding an enquiry or wilfully interrupts the proceedings thereat he shall be guilty of an offence and liable on conviction before a court of resident magistrate to a fine not exceeding ten pounds or, in default of payment, to imprisonment for a period not exceeding one month; provided that nothing in this sub-section contained shall render any person liable to penalties for refusing to answer a question or failing to comply with any such demand, if the answer to the question or compliance with the demand would tend to incriminate him.

(4) Any person who makes default in attending as a witness at an enquiry mentioned in this Act at the time and place at which he is required so to attend and when summoned in the prescribed manner, shall, unless he satisfy the court that there was a reasonable excuse for the default, be liable to the penalties mentioned in sub-section (3) of this section.

Forms of *subpoena* and oath and fees to witnesses.

\*8. The forms of *subpoena* for securing the evidence or presence of any person at an enquiry mentioned in this Act, the forms of oath to be used for, and the fees to be paid to witnesses attending, any such enquiry shall, as nearly as possible be in accordance with the forms of *subpoena* and oath used and the fees paid in a court of resident magistrate in criminal cases under the law for the time being relating to courts of resident magistrate.

\* For fees of witnesses in criminal cases see Govt. Notice No. 260 of 1909 (*Gazette*, 5/3/09).

9. From and after the coming into operation of this Act all reports, which by the Births and Deaths Registration Ordinance 1906 are required to be made, in respect of a death, to a magistrate, shall be made to the public prosecutor; and any instructions which may be given and any orders authorizing burial which may be issued by a magistrate in accordance with that Ordinance, other than is mentioned in section *forty-one* thereof, shall be given or issued by the public prosecutor. The public prosecutor shall furnish the information which under that Ordinance is required to be furnished by a magistrate.

Amendment of Ordinance No. 19 of 1906 as to reporting deaths to magistrates.

10. Any person who, after an oath has been duly administered to him under this Act, gives false evidence, knowing the same to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

Penalty for false evidence.

11. Any person who shall contravene or fail to comply with any provision of this Act, for the contravention whereof or failure to comply wherewith no penalty is specially provided, shall be liable on conviction to a fine not exceeding twenty-five pounds, or, in default of payment, to imprisonment for a period not exceeding three months, or to such period of imprisonment without the option of a fine.

General penalties.

12. Nothing in this Act contained shall be deemed to abrogate or diminish any powers or duties conferred or imposed by law upon any Government officer, save as is specially provided in this Act.

Saving of other powers of officers.

13. Anything to the contrary notwithstanding in the Stamp Duties Amendment Proclamation 1902 or any amendment thereof no affidavit made for the purposes of this Act shall be chargeable with stamp duty.

Affidavits under Act exempt from stamp duty.

14. This Act may be cited for all purposes as the Inquests Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.\*

Title and date of operation of Act.

\* This date was the 1st August, 1909. See Proc. (Admn.) No. 47 of 1909 (*Gazette*, 9/7/09, p. 64).

Act No. 9 of 1909.]

[Promulgated 2nd July, 1909.

## AN ACT

TO APPLY A SUM OF MONEY NOT EXCEEDING NINE THOUSAND SIX HUNDRED AND SEVENTY POUNDS SIXTEEN SHILLINGS AND SEVEN PENCE STERLING, FOR THE PURPOSE OF MEETING AND COVERING CERTAIN UNAUTHORIZED EXPENDITURE.

Assented to 29th June, 1909.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Revenue charged with £9670.16s.7d. unauthorized expenditure of the year which ended 30th June 1908.

1. The public revenue of the Colony is hereby charged with the sum not exceeding nine thousand six hundred and seventy pounds sixteen shillings and seven pence sterling to meet certain expenditure over and above the amounts voted or appropriated for the service of the financial year which ended the 30th day of June 1908. Such expenditure is described on page xxx of the Report of the Auditor-General of this Colony on the Accounts of the Colony for the financial year 1907-08, and is further specified in the Schedule to this Act.

Title and date of operation of Act.

2. This Act may be cited as the Unauthorized Expenditure (1907-08) Act 1909, and shall come into operation on the date of its first publication as an Act in the *Gazette*.

## SCHEDULE.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
	(ORDINARY EXPENDITURE.)		£ s. d.
11	Printing and Stationery	Government Printer	95 18 6
21	Treasury	Secretary to the Treasury	47 19 1
35	Public Works	Secretary for Public Works	4,109 9 6
	(EXTRAORDINARY EXPENDITURE.)		
C.	Relief Works—Unemployed	Secretary for Public Works	5,417 9 6
			£9,670 16 7

Act No. 10 of 1909.]

[Promulgated 2nd July, 1909.

AN ACT

TO APPROVE AND PROVIDE FOR THE CONSTRUCTION AND ACQUISITION BY THE RAILWAY BOARD OF CERTAIN LINES OF RAILWAY IN THIS COLONY AND TO AUTHORIZE THE GOVERNMENT THEREOF TO ADVANCE CERTAIN MONEYS TO THAT BOARD.

(Assented to 29th June, 1909.)

WHEREAS by article *ten (b)* of a Convention entered into between the Governments of the Transvaal and of the Orange River Colony, dated the 2nd day of June, 1908, the terms of which are set forth in the First Schedule to the Inter-Colonial Conventions Ratification Act 1908, it was agreed that the Railway Board by such Convention constituted (hereinafter referred to as "the Board") should have power to acquire or to construct lines of railway and to complete arrangements concerning the same, subject to the approval of the Parliament of the Colony in which any such line is situate or to be constructed, and that if such line be wholly within one Colony, then subject to the approval only of the Parliament of that Colony;

And whereas the Board proposes to construct wholly within this Colony the lines of railway mentioned and described in the Schedule to this Act at a cost approximately not exceeding the several amounts respectively set opposite to the described route of the said lines in the said Schedule, and to acquire from the Government of this Colony the line of railway known as the Selati Line;

And whereas it is proposed that the moneys necessary for the construction of the said lines of railway shall be advanced on loan to the Board by the Government of this Colony (hereinafter referred to as "the Government") out of the portion of the guaranteed loan mentioned in Head No. II of Act No. 8 of 1907, and upon the like terms to those upon which the Government is able to raise the said guaranteed loan, provided that the interest to be paid by the Board to the Government upon the advance does not exceed the rate of four per cent. per annum;

And whereas it is necessary as hereinbefore recited that the construction of the said lines of railway and the acquisition of the said Selati Line by the Board be approved and that the advance of moneys by the Government to the Board to meet the cost of each such construction and acquisition be sanctioned by Parliament;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Construction of certain railway lines according to Schedule approved.

1. The construction by the Board of the several lines of railway (together with all sidings, stations, buildings, and other appurtenances necessary or incidental to the proper working of those lines when constructed) more particularly described and set forth in the Schedule to this Act, at a cost approximately not exceeding the several amounts respectively set opposite the described routes of these lines in the said Schedule is hereby approved.

Acquisition of Komati-Selati line of railway.

2. The acquisition by the Board from the Government, for the sum of three hundred thousand pounds, of the line of railway commencing at or near Komatipoort and extending to the farm "Newington", and commonly known as the "Selati Line", is hereby approved.

Authority and conditions for advance to Board out of guaranteed loan of 1907 a sum not exceeding £1,230,000 for construction of railway lines according to Schedule.

3. The Government is hereby authorized to advance to the Board out of the guaranteed loan raised under Act No. 8 of 1907 and more particularly out of that portion thereof described in Head II of the Schedule to that Act, a sum not exceeding one million two hundred and thirty thousand pounds sterling. Those moneys shall be advanced upon the terms and conditions following, that is to say:—

(1) The moneys advanced shall be applied by the Board towards such railway construction as is mentioned in section *one* of this Act and is more particularly described in the Schedule thereto;

(2) interest shall be paid half-yearly by the Board to the Colonial Treasurer upon any moneys so advanced at the same rate at which the said guaranteed loan is raised by the Government but not exceeding four per cent. per annum. Such interest shall be payable on such dates as the Colonial Treasurer may determine;

(3) the Board shall pay to the Colonial Treasurer upon the same dates a sum equal to ten shillings per cent. on the amount advanced as aforesaid to enable the Government to meet sinking fund payments due or to become due by it under Act No. 8 of 1907 in respect of that proportion of the said guaranteed loan which represents the amount so advanced, or if His Majesty's Imperial Treasury shall certify that a greater sum is necessary for the purposes described in sub-section (2) of section *seven* of the said Act, then such greater sum;

(4) the Board shall further pay to the Colonial Treasurer on the same dates a sum covering the expenses incidental to the issue of and the management charges of the said proposition;

(5) so long as the administration and control of the Central South African Railways are vested in the Board, the said lines of railway described in the Schedule to this Act shall be worked by it and incorporated in and form part of its system of railways; and whenever those lines of the Central

South African Railways which are in this Colony cease to form part of that system, all the liabilities of the Board in respect of the said advances shall cease and determine.

4. The Board may from time to time, with the approval of the Government, apply any savings which may be made under any Head or Heads in the Schedule to this Act to any other Head.

Reallocation of moneys in Schedule.

5. This Act may be cited for all purposes as the Railways Construction and Acquisition Act 1909, and shall come into operation on the date of its first publication as an Act in the *Gazette*.

Title and date of operation of Act.

*SCHEDULE.*

PARTICULARS OF LINES OF RAILWAY.

Description of Line of Railway.	Approximate Cost of Construction.	Approximate Length.
1. A line of railway being an extension of the Pretoria-Pietersburg Railway from Pietersburg to a point at or near Bandolier Kop	£ 250,000	64 miles.
2. A line of railway from Welverdiend Station to a point at or near Lichtenburg with a westerly extension from a point at or near "Treurfonten" No. 12 ... ..	400,000	154 miles.
3. A line of railway being an extension from Ermelo to Piet Retief ... ..	255,000	72 miles.
4. A line of railway from Geduld Station via Benoni to a junction with the Germiston-Ermelo Railway at a point eight and a quarter miles east of Germiston ... ..	75,000	13 miles.
5. A line of railway being an extension of the Komati-Selati Railway to a point at or near the Great Letaba River [Note: Total estimated cost of construction is £550,000, of which £300,000 will be found out of Railway Surpluses for the year 1908-09.]	250,000	150 miles.
	£ 1,230,000	

Act No. 11 of 1909.]

[Promulgated 2nd July, 1909.]

AN ACT

TO FURTHER AMEND THE GAME PRESERVATION ORDINANCE 1905  
(No. 6 OF 1905) AS AMENDED BY THE GAME PRESERVATION  
AMENDMENT ACT 1907 (No. 13 OF 1907).

(Assented to 30th June, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

Repeal of section *three* of Ordinance No. 6 of 1905 and section *two* of Act No. 13 of 1907 and substitution of new provision.

1. Section *three* of the Game Preservation Ordinance 1905 (hereinafter referred to as the principal law) and section *two* of Act No. 13 of 1907 shall be and are hereby repealed and the following provisions shall be substituted therefor :—

*For text see Ordinance No. 6, 1905, section three.*

All proclamations issued under the authority of the said sections shall remain in full force and effect until withdrawn or altered under the authority of this section.

Amendment of section *four* of Ordinance No. 6 of 1905.

2. Section *four* of the principal law as amended by Act No. 13 of 1907 shall be and is further amended by the addition of the following new paragraph :—

*For text see Ordinance No. 6, 1905, section four (k).*

Amendment of section *five* of Ordinance No. 6 of 1905.

3. Section *five* of the principal law shall be and is hereby amended by the addition of the words " or from some neighbouring Colony " after the word " oversea " in sub-section (2) thereof.

Amendment of section *seven* of Ordinance No. 6 of 1905.

4. Section *seven* of the principal law shall be and is hereby amended by the addition of the following new paragraph to sub-section (2) thereof :—

*For text see Ordinance No. 6, 1905, section seven (2) (d).*

Repeal of section *five* of Act No. 13 of 1907.

5. Section *five* of Act No. 13 of 1907 shall be and is hereby repealed and paragraph (a) of section *ten* of the principal law shall read as follows :—

*For text see Ordinance No. 6, 1905, section ten (a).*

Amendment of section *ten* of Ordinance No. 6 of 1905.

6. Section *ten* of the principal law shall be and is hereby further amended by the addition of the following new paragraph :—

*For text see Ordinance No. 6, 1905, section ten (d).*

Repeal of section *seventeen* of Ordinance No. 6 of 1905.

7. Section *seventeen* of the principal law shall be and is hereby repealed and the following section shall be substituted therefor :—

*For text see Ordinance No. 6, 1905, section seventeen.*

• 8. The warden, European rangers and native rangers of any reserve defined by proclamation issued under section *three* of the principal law or any amendment thereof shall have all such powers and shall perform such duties as are by law conferred or imposed respectively upon a police officer, European police constable, or native police constable.

Powers of warden and rangers of game reserves.

9. (1) Whenever the following paragraphs are mentioned in the principal law or regulations made thereunder the paragraphs mentioned opposite thereto shall be read in lieu thereof; that is to say—

References in Ordinance No. 6 of 1905 to be read in accordance with amendments made by this Act.

For paragraph (a) of section *three* shall be read paragraph (b) of section *three*.

For paragraph (b) of section *three* shall be read paragraphs (c) and (f) of section *three*.

For paragraph (c) of section *three* shall be read paragraph (a) of section *three*.

For paragraph (d) of section *three* shall be read paragraph (e) of section *three*.

(2) Wherever in any unrepealed provision of the principal law the expression “this Ordinance” or “regulations” or “regulations made thereunder” is used, any such expression shall be deemed to include respectively the principal law with any amendment thereof or any regulations made under the principal law as amended.

(3) Any expression defined in and for the purposes of the principal law or any amendment thereof shall, when used in this Act, bear the same meaning as is assigned to it for those purposes.

10. This Act may be cited for all purposes as the Game Preservation Further Amendment Act, 1909, shall be read as one with the principal law as amended by Act No. 13 of 1907, and shall come into operation on a date to be fixed by the Governor by proclamation in the *Gazette*.\*

Title and date of operation of Act.

\* This date was 1st October, 1909. See Proc. (Admn.) No. 60 of 1909 (*Gazette*, 13/8/09, p. 686).



Act No. 12 of 1909.]

[Promulgated 2nd July, 1909.]

## AN ACT

## TO MAKE BETTER PROVISION FOR THE ERADICATION OF NOXIOUS WEEDS.

(Assented to 30th June, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. In this Act and any regulations made thereunder—

“Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice and consent of the Executive Council thereof;

\* “noxious weed” shall mean *Xanthium spinosum*, or any other plant which the Governor may declare by proclamation in the *Gazette* to be a noxious weed, either throughout the whole Colony or in one or more districts or portions of districts thereof.

†2. (1) The Governor may from time to time make, alter, or rescind regulations

(a) imposing upon the occupier of land, or in the case of unoccupied land, upon the owner thereof or his agent in this Colony, or in the case of land held under mining title, upon the holder of such title or his agent in this Colony, or in the case of Crown Land over which grazing rights have been granted upon the holder of those rights or his agent in this Colony the duty of clearing and keeping cleared that land of noxious weeds;

(b) prescribing the manner in which any noxious weed shall be eradicated by persons subject to the duty of clearing and keeping land clear of it;

(c) empowering any officers of the Department of Agriculture, or field cornets, or police officers and constables to enter upon any land and inspect the same and to give directions by written notice or otherwise to persons subject to the said duty to clear that land of any noxious weed;

(d) prescribing the forms of any such notice, the particulars of directions to be given therein, and the manner in which it

Interpreta-  
tion of terms.

Power to  
make  
regulations  
for the  
eradication of  
noxious weeds  
by occupiers,  
etc., of land.

\* Cockle-bur and lucerne dodder have been declared noxious weeds under Proc. (Admn.) No. 25 of 1910.

† For regulations see Govt. Notice No. 329 of 1910 (*Gazette*, 1/4/10); see also Govt. Notice No. 546 of 1910 (*Gazette*, 27/5/10, police officers and constables to be *ex officio* inspectors).

shall be served upon occupiers, owners, holders of mining title, holders of grazing rights or agents of such owners or holders.

(e) empowering the officials described in paragraph (c) to eradicate noxious weeds in default of compliance with the requirements of any such notice by a person upon whom the same has been served ;

(f) providing for the recovery of the cost of eradication of noxious weeds from any such person who is so in default and the mode of such recovery ;

(g) preventing the introduction into this Colony or the sale of any plant, seed or grain, which is likely to propagate or spread the growth of noxious weeds ;

(h) generally for preventing the spread of noxious weeds in this Colony or any district or portion of a district thereof.

(2) Penalties may be imposed for a breach of or failure to comply with any such regulations not exceeding a fine of fifty pounds or in default of payment imprisonment with or without hard labour for a period of six months.

(3) All such regulations shall be of force and effect upon the publication thereof in the *Gazette*.

(4) All such regulations shall be laid upon the tables of Parliament within seven days after such publication, if Parliament be then in Session, or, if it be not then in Session, within seven days after the commencement of its next ensuing Session.

3. As from the date of the publication of any regulations made under section two, Law No. 4 of 1897 shall be repealed.

Repeal of  
Law No. 4 of  
1897.

4. This Act may be cited for all purposes as the Noxious Weeds Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.

Title and date  
of operation  
of Act.

Act No. 13 of 1909.]

[Promulgated 3rd July, 1909.]

## AN ACT

TO FURTHER AMEND LAW NO. 3 OF 1871 AND TO VALIDATE  
CERTAIN MARRIAGES.

(Assented to 2nd July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Articles *one, two, three, six, and ten* of Law No. 3 of 1871 (hereinafter referred to as the principal law) shall be and are hereby repealed, and the provisions in this Act contained shall be deemed to be respectively substituted for those repealed articles and shall be read as if they had been in the principal law enacted.

2. (1) Unless a special licence has been granted as provided in section *four* of this Act, no marriage shall be solemnized in this Colony until banns have been published either

(a) in public in the ordinary manner on three successive Sundays during divine service in a church or other building habitually used for public worship; or

(b) by posting them up for a period covering three successive Sundays in a conspicuous place to which the public have

access at the magistrate's offices, ~~within as he is may be~~ in the district in which either of the parties to the intended marriage or both of them reside.

(2) Upon production of proof that the banns have so been published the parties to the intended marriage may appear before any resident magistrate or assistant resident magistrate or before any minister of religion appointed a marriage officer, as provided in the next succeeding section, for the purpose of the solemnization of the marriage.

3. (1) Every resident magistrate and every assistant resident magistrate *ex officio* shall, and any minister of religion who may be appointed under this section a marriage officer (hereinafter referred to as a marriage officer) may, solemnize marriages in this Colony if satisfied that the requirements described in article *four* of the principal law have been complied with and that the impediments mentioned in that article or in article *eight* as hereby amended do not exist.

(2) The Colonial Secretary may from time to time appoint any minister of religion to be a marriage officer, and his appointment shall be notified in the *Gazette* and shall have effect as from the date on which in that notice it is expressed to take effect.

(3) Every minister of religion appointed a marriage officer under article *two* of the principal law shall be deemed to have

Repeal of laws.

Publication of banns.

Solemnization of marriages by magistrates and specially appointed ministers of religion.

been appointed under this section, and his appointment shall be deemed to have had effect as from the date of the notice in the *Gazette* of his appointment, or from the date on which that appointment was by the notice expressed to have effect, whichever is the earlier date.

4. (1) Marriages without such publication of banns as aforesaid shall only be solemnized in this Colony if the provisions of this section have been complied with, provided that nothing herein contained shall affect the authority conferred by any special licence issued by the Colonial Secretary before the coming into operation of this Act.

Special licences to marry to be issued by magistrates.

(2) Persons desiring to be married without publication of banns shall appear before a resident magistrate or an assistant resident magistrate, and if the requirements described in article *four*, and, when necessary, in article *five* of the principal law have been complied with and it appears that the impediments aforesaid do not exist and the magistrate is thereby satisfied that the intended marriage may be lawfully solemnized, he shall issue to the parties a certificate in Form "A" set forth in the Schedule to this Act.

(3) Upon production of that certificate and upon payment of a fee of five pounds, the resident magistrate or assistant resident magistrate before whom the parties have appeared shall issue to them a special licence in the Form "B" set forth in the Schedule to this Act authorizing any magistrate or marriage officer to solemnize a marriage between those parties before the expiry of three months from the date of the special licence. The special licence shall be delivered by the parties to the magistrate or marriage officer (as the case may be) who solemnizes the marriage and shall be by him transmitted with the duplicate original register for record in the office of the Registrar-General of Births, Marriages, and Deaths.

5. Article *eight* of the principal law shall be and is hereby amended by the deletion of all words to the end of the article after the words "it might have been learned" and the substitution for the words so deleted of the words "it shall not be lawful to solemnize a marriage of such a person, and any magistrate or marriage officer who in such events solemnizes such a marriage shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months".

Amendment of article *eight* of Law No. 3 of 1871.

6. (1) Any magistrate or marriage officer who performs a marriage ceremony between parties one of whom is at the time of the ceremony already lawfully married, and any person aiding or abetting or counselling or procuring the performance of such a ceremony, shall, if he knew that either party thereto was already lawfully married be guilty of an offence and liable on conviction to a fine not exceeding two hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding one year or to both such fine and such imprisonment.

Penalties for solemnization of bigamous marriages.

(2) Nothing in this section shall be deemed to affect the provisions of the common law relating to bigamous marriages.

Penalty for false statements in relation to banns or special licences.

Amendment of section three of Ordinance No. 39 of 1904.

Injuring or wilfully destroying or falsifying marriage registers.

Power to make regulations as to transmission of registers by magistrates and marriage officers to Registrar-General.

Validation of certain marriages solemnized by the Consul-General of the Netherlands acting under the authority of a certain Volksraad Resolution.

Title and date of operation of Act.

7. Any person who shall make any false statement in connection with any act done for the purpose of procuring the publication of banns or a special licence to marry, knowing that statement to be false, shall be guilty of an offence and liable on conviction to the penalty prescribed by law for perjury.

8. Notwithstanding anything in section three of Ordinance No. 39 of 1904, the fee of five shillings payable thereunder shall, in the case of marriages solemnized under the principal law as amended by this Act, not be payable if the marriage is solemnized by a marriage officer, but only if it is solemnized by a magistrate.

9. In sections *thirty-six* and *thirty-seven* of Ordinance No. 19 of 1906 the term "register" shall include, in addition to the registers defined by that Ordinance, any marriage register kept in accordance with the principal law as amended by this Act or any regulations made under this Act and the provisions of section *thirty-four* of the said Ordinance in so far as they relate to the making of searches and the payment of fees for searches shall apply *mutatis mutandis* to any marriage register as aforesaid.

\*10. (1) The Governor-in-Council may from time to time make, alter, or rescind regulations providing

(a) for the proper transmission by magistrates and marriage officers of duplicate original marriage registers, to the office of the Registrar-General of Births, Marriages, and Deaths ;  
(b) penalties for the contravention or failure to comply with any such regulations not exceeding a fine of ten pounds or, in default of payment, imprisonment with or without hard labour for a period of one month or both such fine and imprisonment.

(2) All such regulations and any alteration or rescission thereof shall be of force and effect on publication in the *Gazette*.

(3) All such regulations or any alteration or rescission thereof shall, within seven days after the publication, be laid on the tables of Parliament, if Parliament be then in Session, or, if it be not then in Session, within seven days after the commencement of its next ensuing Session.

11. Any marriage solemnized in this Colony between the first day of September 1900 and the coming into operation of this Act by the Consul-General of the Netherlands, acting under the authority of the First Volksraad Resolution article 2286, dated the tenth day of September 1896, shall be as valid and binding a marriage between the parties thereto as if the provisions of the principal law had been complied with and the said Volksraad Resolution had been at the date of the marriage of force and effect.

12. This Act may be cited for all purposes as the Marriage Law Amendment Act 1909, shall be read as one with the principal

\* For regulations see Govt. Notice No. 906 of 1909 (*Gazette*, 6/8/09, p. 587).

law, and shall come into operation as to section eleven on the date of its first publication as an Act in the Gazette,† and as to the remainder of the Act on a date to be hereafter fixed by proclamation of the Governor in the Gazette.\*

SCHEDULE.

Form "A."

CERTIFICATE

Issued in accordance with section four of the Marriage Law Amendment Act 1909.

I, ..... Resident Magistrate
Assistant Resident Magistrate
of the District of .....
hereby certify that there appeared before me ..... (name in full)
bachelor residing at .....
widower .....
and ..... (name in full)
spinster residing at .....
widow .....
who declare that they wish to be married without publication of banns and who have answered me the questions put to them as follows :-

- 1. What is your age ? { He ..... She .....
and if one of the parties is under twenty-one years of age :
2. Have you a written consent of your parents or guardians ? { He ..... She .....
If either of the parties has been previously married and there are children born of the previous marriage :
3. Have you a certificate of the Master of the Supreme Court to re-marry or a copy of the judgment of the Supreme Court (as the case may be) ? He ..... She .....
4. Are you related in the ascending or descending line, or do you stand in the relationship of uncle and niece, aunt and nephew to one another, or are you related still closer, either by consanguinity or affinity ?
Answer.....

5. Are you aware of any lawful impediment to your marriage ? { He ..... She .....
And I ..... Resident Magistrate,
Assistant Resident Magistrate,
of ..... do hereby
further certify that the above-mentioned questions were answered as given above and that all necessary documents were shown to me and found in good order.

Resident Magistrate.
Assistant Resident Magistrate.
Dated this ..... day of .....
19..... at .....

† The Act was first published in the Gazette on the 3rd July, 1909.
\* See Proc. (Admn.) No. 58 of 1909, putting remainder of Act into operation on 1st October, 1909 (Gazette, 6/8/09, p. 581).

Form "B."

TRANSVAAL SPECIAL MARRIAGE LICENCE.

(Valid for three months only from the date hereunder written.)

LICENCE to marry in this Colony in accordance with the laws thereof is hereby granted to..... bachelor

and ..... widower  
..... spinster  
..... widow

who have appeared before me the Resident Magistrate of the District of Assistant Resident Magistrate and who have produced to me the certificate required by law.

Given at the Magistrate's Office at..... Transvaal, this ..... day of ..... in the Year of Our Lord One thousand Nine hundred and.....

.....  
Resident Magistrate.  
Assistant Resident Magistrate.

Act No. 14 of 1909.]

[Promulgated 3rd July, 1909.]

AN ACT

TO AMEND ORDINANCE No. 10 OF 1903.

—————  
(Assented to 2nd July, 1909.)  
—————

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Section *one* of Ordinance No. 10 of 1903 shall be and is hereby amended by the deletion therefrom of the words "Witwatersrand District" and the substitution for those words of the words "magisterial districts of Johannesburg, Boksburg, Germiston, and Krugersdorp".

Amendment  
of section *one*  
of Ordinance  
No. 10 of  
1903.

2. This Act may be cited for all purposes as the Superior Courts Criminal Jurisdiction Amendment Act 1909 and shall come into operation on the first day of July, 1909.

Title and date  
of operation  
of Act.



Act No. 15 of 1909.]

[Promulgated 9th July, 1909.]

## AN ACT

## TO AMEND THE LAWS RELATING TO REVENUE.

(Assented to 2nd July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

## PART I

## TRADING LICENCES.

Licence duties payable in respect of certain trades and businesses.

1. (1) From and after the first day of January, 1910, the several rates for the revenue licences mentioned in the Second Schedule to this Act shall be the rates payable in respect of the trades or businesses specified in that Schedule, notwithstanding anything to the contrary contained in Ordinance No. 23 of 1905 or any other law mentioned in that Schedule, and the rates in force on the thirty-first day of December, 1909, shall from and after that day cease to be in force. The rates mentioned in the said Schedule shall (so far as is applicable) be thereupon substituted for the rates mentioned in the Second Schedule to that Ordinance or in that other law, these rates shall be read and construed as part of that Ordinance or other law as the case may be.

(2) The provisions mentioned in the First Schedule to this Act shall, from and after the First day of January, 1910, be repealed.

## PART II

## STAMP DUTIES AND FEES.

Stamp duties payable in respect of certain documents.

2. (1) From and after the first day of October, 1909, the several instruments specified in the Third Schedule to this Act shall be subject to the stamp duties therein stated and the existing stamp duties to which the said instruments are on that day liable shall, from and after that day cease to be chargeable: Provided that, in the case of leases, the provisions contained in paragraphs (b) to (g) of Item No. (2) of the Schedule to Ordinance No. 16 of 1905 shall continue in force, except that in paragraph (g) the words "Lease for the purposes of stamp duty shall include a sub-lease" shall be deleted.

(2) A sub-lease shall be chargeable with the same stamp duties as a cession of a lease.

3. From and after the first day of October, 1909, the stamp fees specified in the Fourth Schedule to this Act shall be payable at the several public offices therein mentioned in lieu of the fees now payable in the said offices. The said fees shall be paid by means of revenue stamps to be affixed to the documents in respect of which the fees are payable and those stamps shall be cancelled as recognized by law.

Fees—where and how payable.

4. (1) Whenever any adhesive stamp denoting duty on an instrument is not defaced, in full compliance with the requirements of section *thirteen* of Proclamation (Transvaal) No. 12 of 1902, but is effectively defaced in any manner which renders the stamp incapable of being again used for any revenue or postal purpose and appears to have been affixed to the instrument at the proper time for stamping, that stamp shall be deemed to be duly defaced.

Defacement of stamps.

(2) Whenever it is shown to the satisfaction of any revenue official that an undefaced or insufficiently defaced stamp affixed to any instrument for purposes of duty was affixed at the proper time for stamping, that official may deface such stamp (by impressing thereon his dated office stamp or by writing thereon his name with the date) and thereupon the stamp so defaced shall in respect of its value be reckoned *pro tanto* as evidence of payment of the duty to which the instrument is liable.

5. (1) Whenever, in the case of any notarial instrument liable to stamp duty, the stamp is required by the provisions of section *one* of Ordinance No. 40 of 1904 to be affixed to the original, the instrument shall be stamped at the time of execution, but whenever the stamp is required to be affixed to the grosse, the instrument shall be stamped within twenty-one days of the date of execution, and in either case the stamp shall be defaced by the notary by or before whom the instrument was executed.

Stamping of notarial instruments which are liable to stamp duty.

(2) If any such instrument is found unstamped after the period mentioned the notary shall be liable to stamp that instrument, provided that this provision shall not affect the liability attaching by law to the maker of the instrument, or any other person for payment of any duty and penalty.

6. (1) Section *forty-two* of Proclamation (Transvaal) No. 12 of 1902 shall be and is hereby amended by addition thereto of the following words: "On recovery of the duty and penalty due in respect of an instrument the instrument shall be stamped accordingly by a competent revenue officer and thereupon shall be deemed a duly stamped instrument".

Amendment of provisions of Proclamation (Transvaal) No. 12 of 1902.

(2) Sub-section (3) of section *twenty-eight* of Proclamation (Transvaal) No. 12 of 1902 shall be and is hereby amended by the omission therefrom of all words after the words "fifty pounds".

(3) Proclamation (Transvaal) No. 12 of 1902 shall be and is hereby amended by the omission therefrom of section *twenty-one*.

7. This part of this Act (including the Third and Fourth Schedules hereto) shall be read as one with the existing laws relating to stamp duties or fees payable by means of stamps and

Act to be read in conformity with existing laws.

the word "instrument" whenever used in this part of this Act shall bear the same meaning as is assigned to that term in and for the purposes of Proclamation (Transvaal) No. 12 of 1902.

Title and date of operation of Act.

8. This Act may be cited for all purposes as the Finance Act 1909, and, save where it is otherwise expressly provided therein, shall come into operation on such date as the Governor may by proclamation in the *Gazette* declare.\*

FIRST SCHEDULE.

Laws repealed.	Extent of Repeal.
Ordinance No. 23 of 1905.	Sub-sections (2) and (3) of section seven; sections eight and ten, and sub-sections (4) and (5) of section twelve.

SECOND SCHEDULE.

Part I.—General.

LICENCE DUTIES PAYABLE IN RESPECT OF THE UNDERMENTIONED TRADES OR BUSINESSES CARRIED ON OR EXERCISED IN THIS COLONY.

	Yearly.	Half-Yearly.
1. By every agent or representative of any foreign manufacturing or trading concern ... ..	£10 0 0	£6 0 0
2. By every person carrying on business as an auctioneer	5 0 0	3 0 0
3. By every person carrying on business as an agent or a broker ... ..	1 0 0	—
4. By every general dealer: for every business or branch business ... ..	1 0 0	—
5. By every board of executors or company of like kind: for every branch ... ..	50 0 0	27 10 0
6. By every owner or possessor of a boiler: for each boiler ... ..	0 10 0	—
7. By every company carrying on the business of banking in this Colony:		
(a) If the paid-up capital does not exceed £500,000 ... ..	250 0 0	—
(b) And in addition for every £1,000 or part thereof in excess of £500,000 ... ..	0 10 0	—
8. Diamond Dealer's Licence (Ordinance No. 63 of 1903)	20 0 0	11 0 0
9. Diamond Broker's Licence (Ordinance No. 63 of 1903)	10 0 0	6 0 0
10. Diamond Cutter's Licence (Ordinance No. 63 of 1903)	5 0 0	3 0 0
11. Licence to Deal in Arms and Ammunition (Act No. 10 of 1907)	10 0 0	6 0 0

LICENCE DUTIES PAYABLE IN RESPECT OF THE UNDERMENTIONED TRADES OR BUSINESSES CARRIED ON OR EXERCISED OUTSIDE THE LIMITS OF ANY MUNICIPALITY:

	Yearly.	Half Yearly.
12. Keeper of any public billiard table: for every table	£10 0 0	£6 0 0
13. Keeper of any public bagatelle table: for every table	2 0 0	—
14. Kaffir eating-house ... ..	2 0 0	—
15. Pawnbroker ... ..	40 0 0	22 0 0
16. Pedlar, for the proprietor himself and also for every employee or other person who trades with him: each person ... ..	1 0 0	—
17. Hawker ... ..	2 0 0	—

\* This date was the 9th July, 1909. See Proc. (Admn.) No. 49 of 1909 (*Gazette*, 9/7/09, p. 64).

## THIRD SCHEDULE.

## STAMP DUTIES PAYABLE UNDER THIS ACT.

1. Affidavit or sworn declaration	... ..	£0	1	0
2. Authentication of signature of any document intended for use outside this Colony	... ..	0	2	6
3. Cheque, bill of exchange payable on demand or at sight on presentation	... ..	0	0	1
3. Bill of exchange or promissory note of any kind whatsoever (except a bank note) drawn or expressed to be payable or paid or endorsed or in any manner negotiated in this Colony:—				
Where the amount or value does not exceed £10	... ..	0	0	1
Exceeds £10, but does not exceed £50	... ..	0	0	6
" £50, " £100	... ..	0	1	0
" £100: for the first £100, a duty of one shilling; for every additional £100 or part thereof	... ..	0	0	6
4. Bond.—Any special, general, notarial or mortgage bond, deed of security, or deed of <i>kinderbewys</i> :—				
For every £100 or part thereof of the amount of the bond	... ..	0	2	6
5. Leases or lettings or agreements for lease or letting of any land, building, or stand (including any rights or assets let therewith):—				
I. Monthly lettings or letting terminable on a month's notice, or lettings for less than a year:—				
If the rent does not exceed the rate of £10 monthly	... ..	0	1	0
Exceeds £10, but does not exceed £20	... ..	0	2	6
" £20, " £30	... ..	0	5	0
" £30, " £40	... ..	0	7	6
" £40	... ..	0	10	0
II. Any lease or agreement of lease for a year or longer which is not liable for transfer duty:—				
Duty shall be chargeable according to the following scale on a sum equal to the aggregate amount of rent payable throughout the period of the lease, together with any other consideration (by way of fore-gift, premium, fine, renewal-money, or the like) paid or payable in respect or by virtue of such lease:—				
(a) Where the lease is for any period not exceeding ten years: for every £100 or part thereof	... ..	0	2	6
(b) Where the lease is for any period exceeding ten years: for every £100 or part thereof	... ..	0	5	0
(c) A lease for an indefinite period not terminable by a month's notice shall be stamped as a lease for five years, subject to repayment of the excess duty if the lease has been sooner terminated.				
6. Cession or transfer of any lease or agreement for lease which cession is not subject to transfer duty	... ..	0	2	6
A sub-lease shall be chargeable as a cession.				
7. Notarial protest or attestation of a bill or note	... ..	0	1	0
8. Notarial certificate of presentation of a bill or note	... ..	0	1	0
9. Policy of life insurance: for every £100 or part thereof of the amount assured	... ..	0	1	0
10. Power of attorney:—				
(a) Proxy to vote at any meeting, poll, ballot, or the like, whether one or more persons be named in the proxy	... ..	0	0	1
(b) To act generally for the grantor	... ..	0	5	0
(c) Any other power not specified	... ..	0	1	0
A power granted by two or more persons constituting the members of a partnership or holding jointly the office of administrator, executor, curator, or trustee, and signing as such shall be deemed a single grant or power.				
11. Registration of share capital of a limited or unlimited company or any increase thereof for every £100 or part thereof	... ..	0	5	0
12. Special licence to marry (Law No. 3 of 1871 as amended by the Marriage Law Amendment Act 1909)	... ..	5	0	0

## FOURTH SCHEDULE.

TARIFF OF FEES CHARGEABLE BY THE MASTER OF THE SUPREME COURT IN LIEU OF THE FEES PRESCRIBED IN SCHEDULE "E" TO THE ADMINISTRATION OF ESTATES PROCLAMATION 1902 [Proc. (TRANS.) No. 28 OF 1902].

*Orphan Chamber Branch.*

1. On estates the gross value of which does not exceed £400 ... £1 0 0  
Thereafter at the rate of five shillings per cent. for every £100 or part thereof of the gross value subject to a maximum of £10.  
(To be paid by means of revenue stamps affixed to the Letters of Administration.)
2. In all estates no matter of what value the following special fees will be chargeable:—
  - (a) Taxing Executor's remuneration: for every £1 or fraction thereof of the taxed amount ... 0 1 0
  - (b) Master's reports: from ... 0 10 0
  - (c) Extracts or copies of documents certified or uncertified and whether made in the Master's office or not:
 

For the first 100 words	...	...	0 2 6
Each subsequent 100 words or fraction thereof	...	...	0 1 0
  - (d) Inspection of documents: each estate ... 0 1 0  
(Stamps to be affixed opposite to entries in a book kept for the purpose.)  
Subject to inspection by executor free of charge

TARIFF OF FEES CHARGEABLE BY THE MASTER OF THE SUPREME COURT IN LIEU OF THE FEES PRESCRIBED IN THE SCHEDULE TO THE INSOLVENCY LAW AMENDMENT ORDINANCE 1905 (ORDINANCE No. 5 OF 1905).

*Insolvency.*

- (a) On the net assets of any insolvent estate or any company in liquidation, whether distributed by trustees or liquidators, or abandoned for realization by secured creditors in terms of section *sixty-two* of Law No. 13 of 1895 or the provision of any law substituted for that section, provided always that no creditor shall be allowed to retain his security as against a trustee or liquidator until he shall have paid to such trustee or liquidator the fees hereby imposed and payable in respect of such security. (Stamps to be affixed to liquidation account.) }  $\frac{1}{4}$  % subject to a maximum of £10.
- (b) Inspection of documents: each estate or company (subject to inspection by the trustee or liquidator free of charge)... £0 1 0  
(Stamps to be affixed opposite to entries in a book kept for the purpose.)
- (c) Extracts or copies of documents, certified or uncertified, and whether made in the Master's office or not:—
 

For the first 100 words	...	...	0 2 6
For each subsequent 100 words or fraction thereof	...	...	0 1 0
- (d) Taxing Trustee's remuneration: for every £1 or fraction thereof of the taxed amount ... 0 1 0
- (e) Master's reports: from ... 0 10 0

## LIST OF FEES PAYABLE AT THE PATENT OFFICE ON AND IN CONNECTION WITH LETTERS PATENT.

(In lieu of the fees prescribed in Schedule "H" to the Patents Proclamation, 1902) [Proc. (TRANS.) No. 22 of 1902].

1. On application for provisional protection ... £1 0 0
2. On filing complete specification ... 3 0 0  
or £4 0 0
3. On filing complete specification with first application £4 0 0
4. On appeal from Commissioner to Attorney-General: by appellant ... 1 0 0
5. On notice of opposition to grant of patent: by opponent ... 0 10 0

6. On hearing by Commissioner: by applicant and by opponent respectively	£0 10 0
7. On appeal from Commissioner to the Supreme Court of The Transvaal: by appellant	1 0 0

*On application to amend Specification.*

8. Up to sealing : by applicant	1 10 0
9. After sealing : by patentee	3 0 0
10. On notice of opposition to amendment: by opponent...	0 10 0
11. On hearing by Commissioner : by applicant and by opponent respectively	0 10 0
12. On application to amend specification during action or proceeding : by patentee	3 0 0

*On Certificate of Renewals.*

13. Before the expiration of the third year from the date of the patent and in respect of the fourth year	2 0 0
14. Before the expiration of the fourth year from the date of the patent and in respect of the fifth year	2 10 0
15. Before the expiration of the fifth year from the date of the patent and in respect of the sixth year	3 0 0
16. Before the expiration of the sixth year from the date of the patent and in respect of the seventh year...	3 10 0
17. Before the expiration of the seventh year from the date of the patent and in respect of the eighth year	4 0 0
18. Before the expiration of the eighth year from the date of the patent and in respect of the ninth year	4 10 0
19. Before the expiration of the ninth year from the date of the patent and in respect of the tenth year	5 0 0
20. Before the expiration of the tenth year from the date of the patent and in respect of the eleventh year...	5 10 0
21. Before the expiration of the eleventh year from the date of the patent and in respect of the twelfth year	6 0 0
22. Before the expiration of the twelfth year from the date of the patent and in respect of the thirteenth year	6 10 0
23. Before the expiration of the thirteenth year from the date of the patent and in respect of the fourteenth year	7 0 0

NOTE.—Any or all of the above payments for renewals may be made in one sum.

*On enlargement of the time for payment of Renewal Fees.*

24. Not exceeding one month	£1 0 0
25. Not exceeding two months	1 10 0
26. Not exceeding three months	2 0 0

*Other matters.*

27. For every entry of a transfer agreement licence or extension of patent	£0 10 0
28. For duplicate of letters patent: each	1 0 0
29. Search or inspection fee: for every quarter of an hour	0 1 0
30. For any certificate issued by the Commissioner	0 5 0
31. For copy of any specification or other document : per folio of 100 words	0 1 0
32. On request to Commissioner to correct a clerical error: up to sealing	0 5 0
On request to Commissioner to correct a clerical error: after sealing	1 0 0
33. For altering address in register	0 5 0
34. For enlargement of time for acceptance of complete specification :—	
Not exceeding one month	1 0 0
Not exceeding two months	1 10 0
Not exceeding three months	2 0 0

TARIFF OF FEES CHARGEABLE BY THE SHERIFF OF THE TRANSVAAL IN LIEU OF THE FEES PRESCRIBED IN SCHEDULE "B" OF THE SHERIFF'S PROCLAMATION [PROC. (TRANS.) NO. 17 OF 1902], 1902.

On extract of certificate from debt registry	...	...	...	£0	5	0
On copy of writ filed	...	...	...	...	0	5
On report of sale to the Court	...	...	...	...	0	10
On report of account to the Court	...	...	...	...	0	10
On plan of distribution of proceeds of sale:—						
Where the purchase price does not exceed £250	...	...	...	2	0	0
Where the purchase price does not exceed £500	...	...	...	3	0	0
Where the purchase price does not exceed £1,000	...	...	...	4	0	0
For every additional £1,000 or portion thereof	...	...	...	1	0	0

SURVEYOR-GENERAL'S OFFICE.

Schedule of Fees payable in lieu of the fees chargeable under Law No. 9 of 1891 (in Schedule "C" to the Law; in Section 36 to Annexure No. 3 to the Law; and Schedule to Annexure No. 2).

*A.—Examination of General Plans.*

1. Examination of general plans of townships: per figure	...	...	...	£0	1	0
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*B.—Certified Copies of Diagrams, etc.*

2. For each diagram of a lot less than 10 morgen	...	...	...	0	5	0
3. For each diagram of a lot from 10 morgen to 75 morgen	...	...	...	0	15	0
4. For each diagram of a lot exceeding 75 morgen	...	...	...	1	0	0
5. For each deduction shown on the diagram	...	...	...	0	1	0
6. For each complete tracing of a diagram of a lot less than 10 morgen	...	...	...	0	3	0
7. For each complete tracing of a diagram of a lot from 10 morgen to 75 morgen	...	...	...	0	7	6
8. For each complete tracing of a diagram of a lot exceeding 75 morgen	...	...	...	0	10	0
9. For each sub-division shown on a diagram	...	...	...	0	1	0
10. For each rough tracing of a lot less than 10 morgen	...	...	...	0	1	6
11. For each rough tracing of a lot from 10 to 75 morgen	...	...	...	0	3	6
12. For each rough tracing of a lot exceeding 75 morgen	...	...	...	0	5	0

*C.—Copies of General Plans.*

13. For each copy of a general plan of a township:—						
For each lot from 1 to 100	...	...	...	0	0	3
For each lot from 100 to 200	...	...	...	0	0	2
For each lot over 200	...	...	...	0	0	1
14. General plans or compilation of farms and portion of farms:—						
Not exceeding two figures...	...	...	...	0	7	6
For each additional figure...	...	...	...	0	2	6
15. Search fee: for every hour or portion thereof	...	...	...	0	1	0
16. For each certificate on a diagram or other document	...	...	...	0	1	0

Act No. 16 of 1909.]

[Promulgated 9th July, 1909.

AN ACT

TO APPLY A SUM OF MONEY FOR THE SERVICE OF THE YEAR  
ENDING THE THIRTIETH DAY OF JUNE 1910.

(Assented to 5th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. The public revenue of this Colony is hereby charged towards the service of the year ending the thirtieth day of June 1910 with a sum of five million and seventy thousand four hundred and thirty-seven pounds sterling.

Public Revenue to be charged with £5,070,437.

2. The money granted by this Act shall not be applied to any use, intent or purpose other than the particular services specified in the Schedule to this Act.

Not to be applied otherwise than as granted.

3. No appropriation granted by this Act for any particular service set forth in the Schedule to this Act under the head of Extraordinary Expenditure shall lapse until such service has been completed.

Appropriation for Extraordinary Expenditure not to lapse until particular service completed.

4. The Colonial Treasurer being duly authorized thereto by warrant under the hand of the Governor shall issue and pay from time to time such sums of money as shall be required for the purposes hereinbefore mentioned, not exceeding in the whole the sums respectively in that behalf specified, and shall in his accounts be allowed credit for all sums paid by him in pursuance of such warrant and the receipts of the persons to whom such sums shall have been so paid shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

The Treasurer to make payments under warrant of the Governor.

5. This Act may be cited for all purposes as the Appropriation (1909-10) Act 1909.

Title.



**SCHEDULE.**  
**ORDINARY EXPENDITURE.**

Number of Vote.	Title of Vote.	Accounting Officer.	Amount of Vote.
1	His Excellency the Governor	Secretary to Prime Minister	£7,899
2	Legislative Council	Clerk to Legislative Council	8,800
3	Legislative Assembly	Clerk to Legislative Assembly	26,900
4	Joint Parliamentary Expenses	Clerk to Legislative Assembly	6,195
5	Prime Minister	Secretary to the Prime Minister	7,592
6	Agriculture & Forests	Director of Agriculture	211,969
7	Colonial Secretary	Assistant Colonial Secretary	76,814
8	Public Health	Assistant Colonial Secretary	172,265
9	Volunteers	Assistant Colonial Secretary	79,870
10	Education	Assistant Colonial Secretary	658,476
11	Attorney-General	Secretary to the Law Department	48,187
12	Superior Courts	Secretary to the Law Department	43,608
13	Magistrates	Secretary to the Law Department	146,767
14	Police	Commissioner of Police	586,843
15	Prisons	Director of Prisons	276,323
16	Foreign Labour	Superintendent of Foreign Labour	9,561
17	Mines	Secretary for Mines	168,356
18	Treasury	Secretary to the Treasury	21,040
19	Internal Revenue	Secretary to the Treasury	16,115
20	Auditor-General	Auditor-General	15,581
21	Customs	Director of Customs	74,786
22	Posts and Telegraphs	Postmaster-General	402,428
23	Printing & Stationery	Government Printer	94,067
24	Agent - General in London	Secretary to the Treasury	10,100
25	Pensions, Allowances and Gratuities	Secretary to the Treasury	9,639
26	Public Debt Services	Secretary to the Treasury	—
27	Miscellaneous	Secretary to the Treasury	20,000
28	Lands and Irrigation	Secretary for Lands	190,637
29	Surveys	Surveyor-General	40,415
30	Native Affairs	Secretary for Native Affairs	120,868
31	Public Works	Secretary for Public Works	463,136
32	Works and Bridges	Secretary for Public Works	250,000
Total Ordinary Expenditure			£4,265,237

**EXTRAORDINARY EXPENDITURE.**

Letter of Vote.	Title of Vote.	Accounting Officer.	Amount of Vote.
A	Extirpation of Cattle Disease	Director of Agriculture	£60,000
B	General Telephone Extension	Postmaster-General	50,000
C	Works and Bridges	Secretary for Public Works	645,200
D	Canalisation of Aapias River, etc., Pretoria	Secretary for Lands	50,000

Total Extraordinary Expenditure ... .. £805,200

**SUMMARY.**

Ordinary Expenditure ... .. £4,265,237  
Extraordinary Expenditure ... .. 805,200

Total ... .. £5,070,437

Act No. 17 of 1909.]

[Promulgated 16th July, 1909.]

## AN ACT

TO FURTHER AMEND THE LAND AND AGRICULTURAL BANK ACT (ACT NO. 26 OF 1907) AND TO AMEND THE LAND AND AGRICULTURAL BANK AMENDMENT ACT (ACT NO 37 OF 1908).

(Assented to 5th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. In this Act

“ amendment Act ” shall mean Act No. 37 of 1908 ;

“ principal law ” shall mean Act No. 26 of 1907 ;

Save as to the term “ co-operative society ”, which shall mean a society registered under the Co-operative Agricultural Societies Act 1908 or any amendment thereof, and also as to the term “ manager ”, any term to which by the principal law a meaning has been assigned for the purposes thereof, shall, when used in this Act, have the same meaning.

2. (1) Sections *four* and *five* of the principal law shall be and are hereby repealed.

(2) The Governor may from time to time appoint a person who shall hold jointly the offices of chairman of the board and manager of the bank.

(3) The chairman and manager when appointed shall be one of the five members of the board mentioned in section *three* of the principal law, but his appointment shall not be subject to the other provisions of that section nor shall he retire in accordance with the provisions of section *ten* of the principal law. In the event of one of the existing members of the board being appointed chairman and manager, no retirement of a member of the board shall take place in the year in which the member so appointed would otherwise have retired.

(4) The chairman and manager so appointed shall have all the powers, jurisdiction and privileges, but shall be subject to all the obligations and duties, conferred or imposed on the chairman and on the manager by the principal law, the amendment Act, or this Act, or any further amendment of those laws.

(5) He shall further preside at all meetings of the board unless he has obtained leave of absence from the Minister of Agriculture, or is incapacitated by sickness or other cause ; in that event the members of the board present at any meeting shall choose one of their number to act as chairman of that

Interpreta-  
tion of terms.

Appointment  
of statutory  
chairman and  
manager of  
the bank.

*Land and Agricultural Bank  
Further Amendment.*

A.D. 1909.]

[Act No. 17.]

meeting or if they so think fit, until the person appointed chairman and manager is able to resume his duties. All the powers, jurisdiction, privileges, and duties exercisable by the chairman shall be exercisable by the person for the time being lawfully acting as chairman.

(6) The provisions of this section shall not come into operation until the Governor shall by proclamation in the *Gazette* have declared it in operation.

Reduction of capital funds of the bank to two million pounds sterling.

3. Section *five* of the amendment Act shall be and is hereby amended so that the funds of the bank shall be two million pounds sterling instead of two and one-half million pounds sterling as in that section is provided. In every other respect the provisions of that section shall remain unaltered.

Repeal of sections *thirteen* and *fourteen* of Act No. 37 of 1908.

4. Sections *thirteen* and *fourteen* of the amendment Act shall be and are hereby repealed.

Loans to co-operative societies on the security of immovable property.

5. (1) A co-operative society may, upon written application made in the form prescribed by the board, obtain a loan from the bank on such conditions as the board may determine for any one or more of the objects in respect of which that society has regulations registered under the Co-operative Agricultural Societies Act 1908 or any amendment thereof.

(2) The loan shall be made upon the security of first mortgage of immovable property and of such additional security as the board may require and it shall bear interest at the rate of five pounds per cent. per annum payable periodically on such dates as the board may prescribe in advance; the loan shall be repayable, with all interest due thereon, within ten years from the date thereof, unless the board shall for good reason extend the period of repayment, or shall sooner call in the loan under section *eight* of this Act.

(3) The loan shall not exceed sixty per cent. of the value, as determined by the board, of that immovable property and of that additional security (if any).

(4) No loan exceeding ten thousand pounds sterling shall be made under this section without the approval of the Governor.

(5) The form of mortgage for securing any such loan shall be as prescribed by the board.

Loans to co-operative societies on the security of joint and several liability of the members, etc.

6. (1) Upon such written application as aforesaid a co-operative society may also obtain a loan from the bank, for any one or more of the objects aforesaid, upon the security of the joint and several liability of the members of the society and of such additional security as the board may require.

(2) A loan made under this section shall bear interest at the rate of five per cent. per annum payable periodically on such dates as the board may prescribe; it shall be repayable with any interest due thereon within five years unless the board for good reasons extends the period.

(3) No loan exceeding five thousand pounds sterling shall be made under this section without the approval of the Governor.

7. A loan to a co-operative society may be made by the board in the form of a cash credit account; and that society may draw the whole or any part of the loan and may at any time repay the whole or any portion thereof. Interest shall be payable by the society to the board on the daily balance of the amount outstanding.

Loan to societies in form of cash credit account.

8. (1) If at any time any portion of a loan made to a co-operative society under section *five* of this Act has, in the opinion of the board, not been used for the objects for which it was made, or not been carefully and economically expended, the board may, for that or for any other good cause, refuse to pay over any further instalments of that loan and may forthwith call up the whole amount already advanced.

Remedies of board in case of loan upon security of immovable property of society.

(2) Thereupon that whole amount, together with the interest on, and the expenses of the board incidental to, the loan, shall forthwith become repayable and in default of repayment the board shall have the same remedies for recovery of the money or enforcement of the bond as is provided by the principal law or the amendment Act for the recovery of other loans made by the bank.

9. (1) If the circumstances described in the last preceding section arise in respect of a loan made under section *six* of this Act, or on the expiry of the period for which the loan was granted the board shall frame a plan of contribution apportioning the liability in equal shares amongst all the members of the society.

Remedies of board in case of loans upon security of joint and several liability of members.

(2) The board shall cause that plan of contribution to be published by notice in the *Gazette* and in a newspaper circulating in the district in which the society carries on its operations. That notice shall state that, if within fourteen days from the date of the publication thereof in the *Gazette* the amount due to the bank in respect of the loan and interest thereon be not paid, the board will, without recourse to any court of law, seize and sell through the sheriff or messenger of the court as the case may be (as it is hereby authorized so to do), so much of the property and effects of each of the defaulting members as may be necessary to meet the indebtedness of each such member as shown in the plan of contribution.

(3) If any member liable to contribute under the plan of contribution has not property or effects sufficient to meet that indebtedness, the board may recover *pro rata* from each of the other members in manner aforesaid the share of that member's unsatisfied liabilities, and if any member liable to pay *pro rata* a share of another member's liability under this section is unable to pay the same, the other members shall be liable to repay *pro rata* a further share to meet that liability, and so on until the whole indebtedness of the members of the society under this section be paid off.

(4) The board in having recourse to the remedies provided by this section shall in every case take and sell movable property of a member before proceeding against his immovable property.

(5) Nothing in this section contained shall be deemed to take away or diminish the right of any one debtor who has paid

more than his *pro rata* share in satisfying his liability thereunder to proceed at common law against his co-principal debtor upon the joint and several liability aforesaid.

(6) For the purposes of this section "liability" shall include, in addition to the loan and interest thereon, the expenses incurred by the board in making the loan, recovering the same, and any interest thereon.

Examination of books of society.

10. The board may at all reasonable times cause the books of the society to be examined by a member of the staff or by any other person appointed thereto.

This Act to modify Act No. 17 of 1908 as regards the bank.

11. This Act shall be deemed to modify, so far as concerns the bank, the provisions of section *thirty-one* of the Co-operative Agricultural Societies Act 1908.

Applications for loans to co-operative societies to be first transmitted to registrar of co-operative societies for certain certificate.

12. Every application made under this Act by a co-operative society for a loan shall be transmitted in the first instance to the registrar of co-operative societies, who shall send on the application to the board accompanied by a certificate (if such be the case) that the said loan has been approved by the society in manner provided as to loans by section *nineteen* of the Co-operative Agricultural Societies Act 1908 or any amendment of that section and that all other provisions of the law have been duly complied with. No loans shall be made to a co-operative society under this Act until the provisions of this section have been complied with.

Guarantee by board of contracts of co-operative societies.

13. (1) The board may guarantee the performance by a co-operative society of any contract entered into or to be entered into by that society, whether jointly with another society or otherwise, and in the event of the failure of any society to carry out the terms of the contract so far as it is liable to do so or to conduct the business which is the subject of the contract, to the satisfaction of the board, the board may complete the contract or abandon the same upon such terms as it is able to arrange, and may recover from the society which is so in default any loss sustained by the Bank, in the same manner as a loan may be recovered under section *nine* of this Act.

(2) Before giving any such guarantee on behalf of a society the board shall obtain from that society an indemnity to the extent of its liability under the contract. Such indemnity shall be signed by the chairman and secretary of the society and when so signed shall bind all the members thereof jointly and severally.

(3) Any such guarantee given by the board prior to the coming into operation of this Act shall be deemed to have been given under this section.

Title and date of operation of Act.

14. This Act may be cited for all purposes as the Land and Agricultural Bank Further Amendment Act 1909, shall be read as one with the principal law and the amendment Act, and shall, save as to section *two*, come into operation on the date of its first publication as an Act in the *Gazette*.\*

\* The Act was first published in the *Gazette* on the 16th July, 1909.

Act No. 18 of 1909.]

[Promulgated 16th July, 1909.]

## AN ACT

TO PROVIDE FOR THE ISSUE OF PASSES TO NATIVES WITHIN URBAN AREAS AND FOR OTHER PURPOSES INCIDENTAL THERETO.

(Assented to 5th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The laws mentioned in the First Schedule to this Act shall be and are hereby repealed to the extent set forth in the second column of that Schedule, together with any provision of any other law which may be repugnant to or inconsistent with the provisions of this Act. Repeal of laws.

2. In this Act and in any regulations made thereunder "Governor" shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council thereof; Interpretation of terms.

"native" shall mean a male person of the age of fourteen years or over that age, if both of his parents are members of an aboriginal race or tribe of Africa;

"urban area" shall mean one of the areas mentioned in the Second Schedule to this Act—unless excluded by proclamation issued thereunder—or any other area declared by the Governor by proclamation in the *Gazette* to be an urban area for the purposes of this Act.

3. The Governor may from time to time by proclamation in the *Gazette* declare any area which is not already an urban area for the purposes of this Act to be such an area, or by like proclamation, declare an urban area or any portion thereof to be no longer an urban area for those purposes. Constitution of new urban areas and exclusion.

\*4. (1) The Governor may from time to time make, alter, or rescind regulations for all or any of the following purposes, that is to say:— Power to make regulations as to passes, etc., in urban areas.

(a) providing for the issue of passes to and the compulsory carrying of passes by natives in urban areas, and imposing a charge on the issue of the pass not exceeding one shilling per month payable in advance by the native;

(b) the supervision and control of natives and their sojourn in urban areas;

(c) the conditions under which contracts of service entered into by natives in urban areas shall be regulated and enforced;

\* For regulations see Govt. Notices Nos. 1373 of 1909 (*Gazette*, 10/12/09), 246 of 1910 (*Gazette*, 11/3/10).

(d) the compulsory medical examination and vaccination of all natives employed or residing in urban areas ;  
 (e) prescribing penalties for a breach of any such regulations not exceeding a fine of ten pounds or, in default of payment thereof, imprisonment with or without hard labour for a period of one month or such imprisonment without the option of a fine.

(2) The regulations in force at the date of the coming into operation of this Act and made under the provisions hereby repealed shall be deemed to be regulations made under this Act, but the terms "municipal pass officer" and "municipal pass office" when used in any such regulation shall, after that date, mean the officer or office appointed by the Governor as a pass officer or pass office ; and the term "municipality" when used in any such regulation shall, after that date, mean "urban area".

(3) All regulations mentioned in sub-section (1) and any alteration or rescission of any regulation mentioned in this section shall be of force and effect in the urban area in respect of which it is made, on publication in the *Gazette*.

(4) All such regulations and any alteration or rescission thereof shall, within seven days after such publication, be laid on the tables of Parliament if Parliament be then in Session, or if it be not then in Session, within seven days after the commencement of its next ensuing Session.

\*5. This Act may be cited for all purposes as the Urban Areas Native Pass Act 1909, and shall not come into operation unless and until the Governor has declared by proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall come into operation on such date as the Governor may, by like proclamation, declare.

#### FIRST SCHEDULE.

Law Repealed.	Extent of Repeal.
Ordinance No. 31 of 1902. Ordinance No. 58 of 1903. Ordinance No. 41 of 1904.	Sections <i>two</i> and <i>three</i> . Sub-section (5) of section <i>fifty-nine</i> . Sub-section (2) of section <i>twenty-one</i> .

#### SECOND SCHEDULE.

The areas for the time being included within the following municipalities :—

Amersfoort,  
 Amsterdam,  
 Barberton,  
 Belfast,  
 Bethal,  
 Carolina,  
 Christiana,  
 Ermelo,  
 Lichtenburg,  
 Lydenburg.

\* For Royal assent and date of operation (1st January, 1910), see Proc. (Admn.) No. 94 of 1909.

Machadodorp,  
Middelburg,  
Nylstroom,  
Pietersburg,  
Potchefstroom,  
Piet Retief,  
Potgietersrust,  
Rustenburg,  
Standerton,  
Schweizer Reneke,  
Ventersdorp,  
Volksrust,  
Wakkerstroom,  
Wolmaransstad,  
Zeerust,

and the following areas in Pretoria district, viz. :—

the municipality of Pretoria ;

the farm "Groenkloof";

the area over which the Pretoria Suburbs Health Committee has for the time  
being jurisdiction ;

the townships of Pretoria North and Wolmer.



Act No. 19 of 1909.]

[Promulgated 16th July, 1909.

AN ACT

TO AMEND THE PUBLIC SERVICE AND PENSIONS ACT, 1908  
(ACT NO. 19 OF 1908).

(Assented to 5th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

Amendment  
of section  
*eight* of Act  
No. 19 of 1908.

1. Paragraph (a) of sub-section (2) of section *eight* of the Public Service and Pensions Act 1908 (hereinafter referred to as the principal law) shall be and is hereby amended by the insertion at the end of sub-section (2) of the said section of the words :—

“ provided that if any female officer, who is not a contributor to the Pension Fund, is removed from her office for either of the reasons stated in paragraphs (c) and (d) hereof, the provisions of the said Chapter III shall not apply in her case ”.

Amendment  
of section  
*thirteen* of Act  
No. 19 of 1908.

2. Section *thirteen* of the principal law shall be and is hereby amended by the addition thereto of the following new paragraph :—

(g) “ commits any crime ”.

Imposition  
of fines for con-  
travention of  
regulations.

(3) Notwithstanding anything to the contrary contained in section *fourteen* of the principal law, it shall be lawful in any regulations made under the provisions of section *fifty-four*, sub-section (1) paragraph (a) of the said law, to provide for the imposition of fines in particular departments or branches of the Public Service for contraventions of regulations applicable to such departments or branches. Such fines shall be fixed in accordance with a scale to be approved by the Minister, and may be imposed by the head of the department without the issue of an order for suspension from duty of the officer concerned.

Amendment  
of section  
*fourteen* of  
Act No. 19  
of 1908.

4. Paragraph (a) of sub-section (1) of section *fourteen* of the principal law shall be and is hereby amended by the insertion immediately after the word “ reprimanded ” of the words “ or deprived of leave privileges or any increase of pay may be suspended ”.

Amendment  
of section  
*seventeen* of  
Act No. 19  
of 1908.

5. Section *seventeen* of the principal law shall be and is hereby amended by the deletion of sub-section (4) thereof and the substitution of the following new sub-section :—

*For text see Act No. 19, 1908, section seventeen (4).*

6. Section *twenty* of the principal law shall be and is hereby repealed and the following new section substituted therefor:—  
*For text see Act No. 19, 1908, section twenty.*

Repeal of section *twenty* of Act No. 19 of 1908 and substitution of new provision.

7. (1) Notwithstanding anything to the contrary in the principal law contained, any female officer who, before the passing of this Act, has, in terms of section *eighteen* of the said law, become a contributor to the Pension Fund, shall have the right of deciding within three months from the first day of January 1910 whether she will continue to contribute or not and in any case where a female contributor decides not to make any further contributions to the Pension Fund the amount of any contributions already made by her to the Fund shall be repaid to her without any allowance for interest, and the contributions made from Revenue to the Fund on her behalf shall be repaid to Revenue together with any interest that has accrued on any amounts standing to the credit of the contributor in the Fund.

Contributions to Pension Fund by female officers.

(2) The provisions of sub-section (1) of section *eighteen* of the principal law shall not be deemed to apply to any female officer engaged after the taking effect of this Act, unless such female officer shall, within three months of the date of the confirmation of her appointment, elect to become a contributor to the Pension Fund.

(3) With the consent of the Treasurer contributions may be made to the Fund by any such officer as is in sub-section (2) of this section mentioned, in respect of any probationary or continuous temporary service performed immediately preceding the date of such confirmation.

(4) Any female officer who does not elect to remain or become a contributor to the Pension Fund shall not be entitled to any gratuity, pension, or other payment on retirement from the Public Service.

8. Section *twenty-seven* of the principal law shall be and is hereby amended by the addition thereto of the following new sub-section:—

*For text see Act No. 19, 1908, section twenty-seven (5).*

Amendment of section *twenty-seven* of Act No. 19 of 1908.

9. Section *forty-one* of the principal law shall be and is hereby amended by the addition thereto of the following new sub-section:—

*For text see Act No. 19, 1908, section forty-one (4).*

Amendment of section *forty-one* of Act No. 19 of 1908.

10. Section *forty-seven* of the principal law shall be and is hereby amended by the addition thereto of the following new sub-section:—

*For text see Act No. 19, 1908, section forty-seven (3).*

Amendment of section *forty-seven* of Act No. 19 of 1908.

11. Notwithstanding anything to the contrary in section *fifty-two* of the principal law contained, the Governor may sanction the immediate payment of all gratuities that may be awarded to those officials at present employed in the Public Service, who are referred to in that section.

Payment of gratuities awarded to officials of South African Republic who are in the Public Service.

Amendment  
of section  
*fifty-three* of  
Act No. 19  
of 1908.

12. Section *fifty-three* of the principal law shall be and is hereby amended by the insertion immediately after the words "official of the South African Republic" of the words "or, failing a widow or minor child, any relative actually dependent for maintenance on such an official", and by the deletion of the words "described in section *fifty-one* who died before the commencement of this Act" and the substitution therefor of the words "who, being such an official as is described in sub-section (1) paragraphs (a) and (c) of section *fifty-one*, died within any period between the eleventh day of October, 1899, and the date on which the said period of two years expired".

Amendment  
of section  
*fifty-nine* of  
Act No. 19  
of 1908.

13. Section *fifty-nine* of the principal law shall be and is hereby amended by the addition thereto of the following new sub-sections :—

*For text see Act No. 19, 1908, section fifty-nine (4), (5), and (6).*

Amendment  
of section  
*sixty-two* of  
Act No. 19  
of 1908.

14. Section *sixty-two* of the principal law shall be and is hereby amended by the deletion of the word "twenty-five" and the substitution therefor of the word "fifty", and by the deletion of the words "and before the first payment thereof has been made".

Amendment  
of section  
*sixty-eight* of  
Act No. 19  
of 1908.

15. Section *sixty-eight* of the principal law shall be and is hereby amended by the deletion of paragraph (c) thereof and the substitution of the following new paragraph :—

*For text see Act No. 19, 1908, section sixty-eight (c).*

Title and date  
of operation  
of Act.

16. This Act may be cited for all purposes as the Public Service and Pensions Act Amendment Act 1909, shall be read as one with the principal law, and shall come into operation on such date as the Governor may by proclamation in the *Gazette* declare.\*

\* See Proc. (Admn.) No. 52 of 1909 (*Gazette*, 30/7/09, p. 447), putting the Act into operation on the 1st August, 1909.

Act No. 20 of 1909.]

[Promulgated 16th July, 1909.]

## AN ACT

TO ESTABLISH A DEPARTMENT OF LABOUR IN THIS COLONY TO AID IN THE PREVENTION OF STRIKES AMONGST EMPLOYEES OR LOCKOUTS BY EMPLOYERS AND TO MAKE PROVISION FOR THE SETTLEMENT OF INDUSTRIAL DISPUTES BY CONCILIATION AFTER INVESTIGATION.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

## PRELIMINARY.

1. This Act, in so far as it contains provisions to aid in the prevention of strikes and lockouts and for the settlement of industrial disputes by conciliation after investigation, shall apply to the following undertakings, trades, or industries, namely—

- (a) the mining industry ;
- (b) any undertaking carried on by a local authority for the supply of gas, electric light, water, or power, or for tramway, or sanitary services ;

\* (c) any other undertaking, trade, or industry to which the Governor may, by proclamation in the *Gazette*, apply those provisions.

In so far as it relates to other matters, this Act shall apply to all undertakings, trades, and industries.

2. In this Act, unless inconsistent with the context, "application" shall mean an application for the appointment, under this Act, of a board to investigate and report upon a dispute ;

"board" shall mean a board of conciliation and investigation, appointed under Chapter III of this Act ;

"department" shall mean the Department of Labour established under Chapter I of this Act ;

"dispute" or "industrial dispute" shall mean any dispute or difference between an employer and any of his employees in relation to

\* The provisions of this Act have been applied to following trades, etc. :—Blacksmiths, brass moulders and finishers, bricklayers, carpenters, coach and wagon builders (wood and iron workers), engineers (electrical and mechanical), fitters, masons (stone cutters, dressers, and wallers), moulders (metal), painters and paperhangers, plasterers, patternmakers, plumbers, printers (linotype and others), turners by Proc. (Admn.) No. 9 of 1910.

- (a) matters affecting work done or to be done by such employees ; or
- (b) rights, privileges, or duties of employers or employees, not involving such a violation thereof as would constitute a criminal offence ; or
- (c) the wages, allowances, or other remuneration of employees, or the price paid or to be paid to them in respect of their employment ; or
- (d) the hours of employment, the qualification or status of employees, and the terms, conditions, and manner of their employment ; or
- (e) the employment of any persons or class of persons, or the dismissal of, or refusal to employ, any particular persons or class of persons ; or
- (f) claims on the part of an employer or any employee that preference should be given, or not be given, to one class of persons over another class of persons (whether as members of a trade union or not, as British subjects or aliens, or as white or coloured persons), and the circumstances under which such preference, if allowed, should, or should not, be given ; or
- (g) materials supplied and alleged to be bad, unfit, or unsuitable, or damage alleged to have been caused to work ; or
- (h) any custom or usage recognized, whether generally or in a particular district, or on particular industrial premises ; or
- (i) the interpretation of any agreement between an employer and employee, or of a portion thereof ;
- “employee” shall mean any white person engaged by an employer to perform, for hire or reward, manual, clerical, or supervision work in any undertaking, trade, or industry to which this Act applies ;
- “employer” shall mean any person or body of persons, whether corporate or unincorporate, employing ten or more white persons upon any undertaking or at any trade or industry to which this Act applies, but shall not include any department of the Crown ;
- “Governor” shall mean the officer for the time being administering the government of this Colony, acting by and with the advice of the Executive Council thereof ;
- “imprisonment” shall mean imprisonment, with or without hard labour, as the court which passes sentence may direct ;
- “inspector” shall mean the Inspector of White Labour appointed under Chapter I of this Act, or any person lawfully acting in such capacity ;
- “lockout” shall mean the closing by an employer of his employment premises, or a suspension by him of work, or the refusal by an employer to continue to employ

any number of his employees when such closing, suspension, or refusal is for the purpose of compelling his own employees, or of aiding another employer, to accept specific terms of employment ;

“Minister” shall mean the Minister of Mines or any other Minister to whom the Governor may, from time to time, assign the administration of this Act ;

“regulation” shall mean a regulation made and in force under section *thirty-four* of this Act ;

“strike” shall mean the cessation of work by a body of employees acting in combination, or a concerted refusal, under a common understanding, of any number of employees, to continue to work for an employer in consequence of a dispute, when such cessation or refusal is for the purpose of compelling their employer, or of aiding other employees in compelling their employer, to accept specific terms of employment ;

“trade union” shall mean any lawful organization of employees formed for the purpose of regulating the relations between employers and employees.

## CHAPTER I

### DEPARTMENT OF LABOUR.

3. (1) There shall be a Department of Labour in this Colony, under the supervision and control of the Minister. Department of Labour.

(2) The Governor shall, from time to time, appoint an officer to be called “the Inspector of White Labour,” who shall, subject to the orders and directions of the Minister, carry out the powers and duties conferred and imposed on him by this Act, or the regulations, or any other law, and shall exercise such other functions as the Governor may, from time to time, lawfully assign to him.

4. The inspector shall perform the following duties, that is to say, he shall Duties of Inspector of White Labour.

(a) receive and register, and, subject to the provisions of this Act, deal with every application by employees or employers for the appointment of a board to determine a dispute, and, upon receipt of the application, shall forthwith inform the Minister thereof ;

(b) correspond with parties to a dispute, and generally perform all acts necessary to ensure the speedy sitting of a board as soon as the same has been appointed by the Minister ;

(c) receive and file all reports and recommendations made by a board, and, subject to the provisions of this Act, do all such things as will render such reports and recommendations effective ;

- (d) keep a register containing the particulars of every application, and of every reference to, or report or recommendation of, a board, and of its proceedings, and of documents relating thereto, and, when required by the Minister, transmit all or any of the same to him ;
- (e) supply, when required, information to any party to a dispute, as to this Act or the regulations or proceedings thereunder, and furnish any such party, or member of the board, with the prescribed forms ;
- (f) keep a register of all unemployed white persons and enter therein such particulars in relation to them, the class of employment required by them, and the trades or occupations previously followed by them, as may be prescribed by regulation ;
- (g) on receipt of the prescribed fee, register all private registry offices, and carry out such inspection of the books of such offices as may from time to time be deemed necessary, and prescribe scale of fees to be charged at such offices and the conditions under which fees may be charged in respect of applications thereat ;
- (h) establish branch registries or labour bureaux in such districts or localities as the Minister may determine, for the collection and supply to the public of information as to the conditions of labour, domestic or industrial, and the state of trade in such districts or localities ;
- (i) investigate the causes of lack of employment in this Colony among white persons, and matters connected therewith, and report the result of his investigations to the Minister ;
- (j) investigate, on the instructions of the Minister, complaints by, or on behalf of, white employees as to their treatment by employers and the conditions of their employment, and report the result of the investigations to the Minister ;
- (k) make reports from time to time to the Minister on labour movements and the conditions of labour, whether in this Colony or elsewhere ;
- (l) supervise the conditions of apprenticeship in any undertaking, trade, or industry ;
- (m) generally, do all such acts and take all such proceedings as the Minister may require for the effective performance of his duties under this Act and the regulations.

## CHAPTER II.

### PREVENTION OF INDUSTRIAL DISPUTES, STRIKES AND LOCKOUTS PENDING INVESTIGATION.

5. (1) After the coming into operation of this Act—
- (a) no alteration shall be made by an employer, in relation to wages, allowances, or other remuneration of his employees or the price to be paid to them in respect of their employment, or to the hours of their work, unless one month's notice at least of the proposed alteration be given to all the employees who would be affected thereby ;

(b) no demand shall be made upon an employer by any of his employees to effect, within less than one month, any such alteration.

(2) If any such alteration be made by an employer and any of his employees have at the expiry of the said period of one month, made application for the appointment of a board, as hereinafter provided, the relationship between the employer and all the employees who would be affected by the alteration shall continue unaltered in respect of any of the matters described in paragraph (a) of sub-section (1), until any such matter has been investigated as an industrial dispute by a board under this Act and, unless the dispute be otherwise settled, until one month shall have elapsed after the publication as hereinafter provided of the report and recommendations of the board, provided that if the Minister decides as hereinafter mentioned that this Act does not apply to the dispute, the alteration may, as soon as the parties to the dispute have received notice of his decision, be made.

(3) If, after such investigation, the board reports to the inspector that either party to the dispute has used the provisions of this section so as to unfairly preserve existing conditions of employment, or so as to delay the alteration of such conditions, that party shall be guilty of an offence and liable on conviction to the penalties mentioned in sub-section (3) or (4) of the next succeeding section, according as the party is the employer or employee.

6. (1) After the coming into operation of this Act it shall be unlawful for

(a) an employer to declare a lockout, or cause a lockout to be declared, or to aid in any manner the declaration or effecting of a lockout; or

(b) an employee to go on strike or to cause a strike; or

(c) any person to incite, encourage, or in any other manner aid an employer in effecting, declaring, or continuing a lockout; or

(d) any person to incite, encourage, or in any other manner aid employees in going, or continuing on strike,

on account of any industrial dispute, until the dispute shall have been investigated by a board under this Act and a period of one month shall have elapsed after the report and recommendations of the board have been published as hereinafter provided.

(2) Nothing in this section contained shall be construed as

(a) prohibiting, in a manner not constituting a strike or lockout, the suspension or discontinuance of any undertaking, industry, or trade to which this Act applies and the consequent suspension or discontinuance of the services of employees therein or thereat;

(b) prohibiting a lockout or strike in respect of a dispute which has once been investigated by a board and its report and recommendations thereon published as hereinafter provided, except where the parties thereto have entered into such agreement as is described in section *twenty-five*.

Prohibition of any lockout or strike pending reference of dispute to a board.



(3) Any employer who contravenes the provisions of this section shall be liable on conviction to a fine of not less than one hundred pounds and not exceeding one thousand pounds for each day or part of a day that the lockout continues, or in default of payment to imprisonment for a period not exceeding twelve months, or to such imprisonment without the option of a fine.

(4) Any employee who contravenes the provisions of this section shall be liable on conviction to a fine of not less than ten pounds and not exceeding fifty pounds for each day or part of a day during which he is on strike, or, in default of payment, to imprisonment for a period not exceeding three months, or to such imprisonment without the option of a fine.

(5) Any person who contravenes paragraph (c) or (d) of sub-section (1) shall be liable on conviction to a fine of not less than fifty pounds, and not exceeding two hundred and fifty pounds, or, in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine.

### CHAPTER III.

#### APPOINTMENT OF BOARDS OF CONCILIATION AND INVESTIGATION.

Application by parties to a dispute for appointment of a board of conciliation and investigation.

7. Whenever there exists between an employer and any of his employees any industrial dispute which the parties thereto are unable to settle amicably, application may be made, by either party, for the appointment of a board of conciliation and investigation.

Manner and form of application for appointment of a board.

8. (1) Every application for the appointment of a board shall be in writing, and, so far as circumstances will allow, in the prescribed form.

(2) Every application shall be accompanied by a statement, setting forth

(a) the names of the parties to the dispute ;

(b) the nature and cause of the dispute, and the claims or demands to which objection is taken, made by either party upon the other ;

(c) an estimate of the number of persons affected, or likely to be affected, by the dispute ;

(d) the efforts hitherto made by the parties to settle the dispute ;

(e) the address at or to which all documents required to be transmitted to or served upon the applicant, may be served or transmitted ;

and shall further be accompanied by a solemn declaration that the declarant believes that if the dispute be not investigated by a board under this Act, a lockout or strike (as the case may be) will result.

(3) There may be stated in every application the name of any person who is willing to act as a member of the board as the nominee of the applicant party.

- (4) Every application and accompanying declaration,  
 (a) if made by an incorporated company, shall be signed by a director, manager, or secretary of the company, duly authorized thereto ;  
 (b) if made by a local authority, shall be signed by the mayor, chairman, town clerk, secretary, or other similar officer, duly authorized thereto in writing ;  
 (c) if made by an individual, shall be signed by that individual, or if made by a partnership, shall be signed by the majority of partners resident in the Colony ;  
 (d) if made by employees who are members of a trade union, shall be signed by two officers of the trade union authorized by a majority vote of the members of the union present at a meeting specially summoned, on at least three days' notice, to discuss the advisability of making the application ;  
 (e) if made by employees, some or all of whom are not members of a trade union, shall be signed by two of such employees, duly authorized by a majority vote taken by ballot of the employees present at a meeting specially summoned as aforesaid and on the like notice.

(5) Every application and the documents which are to accompany it, as hereinbefore provided, shall be sent by registered post, addressed to the inspector or shall be personally served upon him, and the date of its receipt by him shall be deemed to be the date of the application.

9. (1) The applicant shall, simultaneously with the sending of the application to or service thereof upon the inspector, transmit, by registered post to, or personally serve on the other party to the dispute, a copy of the application and of the statement and declaration accompanying it.

Statements  
of reply to  
applications.

(2) Within five days after the receipt of the same such other party shall transmit, by registered post, to, or personally serve upon the inspector and the applicant, a statement in reply.

(3) The statement of reply shall be addressed

- (a) where the applicant is the employer, to the applicant ;  
 (b) where the applicants are employees and members of a trade union, to the president and secretary of such trade union ;  
 (c) where the applicants are employees but some or all are not members of a trade union, then  
 (i) if no person has been authorized to represent such employees, the statement in reply shall be addressed to at least ten of their number ;  
 (ii) if in accordance with the last preceding section two persons were authorized to make application, the statement in reply shall be addressed to such two persons ;  
 (iii) in the case of those employees who are members of a trade union, the statement in reply shall be addressed to the president and secretary of the union, as representing such employees.

(4) The statement of reply shall be in every case transmitted to or served upon the applicant or applicants at the address for service set forth in the statement accompanying his or their application.

Procedure in relation to the appointment of a board.

10. (1) Within ten days after the date of the receipt of the application, the Minister shall decide whether or not the provisions of this Act apply to the dispute, and shall give notice of his decision to each of the parties. No dispute shall be the subject of reference to a board in any case in which the employees affected by the dispute are fewer than ten. The Minister's decision under this sub-section shall be final.

(2) If the Minister shall decide that the provisions of this Act do apply to the dispute, a board, consisting of three members, shall be appointed in manner following, that is to say—

(a) each party shall, within five days after receipt of the notice of the Minister's decision, nominate one person as a member of the board, and the Minister, if satisfied that such person is willing to act as such member, shall appoint him; a person nominated under sub-section (3) of section eight at the time of the application, shall be deemed to have been nominated within such five days;

(b) if, at the expiry of the said five days or of such further period as the Minister may, on request of that party, or of his own motion, allow, either party has made default in nominating a member, the Minister shall himself forthwith appoint a fit person to be a member, who shall, for all purposes, be deemed to be appointed on the nomination of the party in default;

(c) the two members appointed on the nomination of the parties may, within five days after receiving notice of their appointment, nominate a third person as a member of the board, and the Minister, if satisfied that such person is willing to act, shall appoint him a member of the board;

(d) if, at the expiry of the said five days or of such further period as the Minister may, on application, or of his own motion, allow, the two members mentioned in paragraph (c) have made default in nominating a third person, the Minister shall, himself, appoint the third member, who shall be deemed, for all purposes, to have been appointed on the nomination of the said two members;

(e) the third member shall be chairman of the board.

(3) Anything to the contrary in this section notwithstanding, if any application or applications be made in relation to a dispute or disputes involving substantially the same issues as the issues in a dispute which a board is about to or has begun to investigate, the Minister may decide to refer both or all of those applications (as the case may be) to one board, and may cancel the appointments of every member of a board already constituted to investigate a dispute involving those issues.

In the event of a reference under this sub-section of two or more applications to one board, that board shall consist of five, seven, or nine members, as the Minister may determine, who shall be nominated and appointed in the same proportions and in the same manner as in sub-section (2) is provided, except that the periods mentioned in that sub-section shall be reckoned from the receipt by the parties of the Minister's decision under this sub-section; in every other respect the provisions of sub-section

(2) shall as far as possible apply. All the applicants in a dispute so referred to one board shall be regarded for the purpose of this Act as one party and all the respondents shall be likewise regarded.

11. (1) No person who has any direct pecuniary interest in the issue of a dispute to be investigated by a board, shall be qualified to be appointed a member of such board, nor, if appointed, shall remain a member thereof.

Qualifications and disqualifications of members of board.

(2) No person shall be qualified to be appointed unless he is a white person.

(3) A member of the board shall vacate his office

(a) if he becomes insolvent, or assigns his estate for the benefit of his creditors, or makes an arrangement with his creditors ;

(b) if he dies, or becomes of unsound mind, or is convicted of an offence for which he is sentenced to imprisonment without the option of a fine ;

(c) if he is absent from two consecutive sittings or meetings of the board without leave of the Minister, unless the absence be due to illness, personal injury, or other physical cause notified in every such event to the secretary of the board before the conclusion of the later of the two sittings or meetings from which the member was absent ;

(d) if he gives one week's notice in writing to the Minister of his intention to resign his office and his resignation be accepted by the Minister.

(4) If any member of the board shall vacate his office for any cause whatever, his place shall be filled in the manner in which by the last preceding section it is prescribed that the member who has vacated office be appointed.

12. (1) There shall be paid to each member of the board (other than any member who may be in the public service) a fee of

Remuneration and allowances of members of the board.

(a) two guineas for every day (not exceeding three days) during which the two members nominated by the parties are engaged in selecting for nomination a third member ;

(b) three guineas for every day or portion of a day on which the board is engaged in investigating or making report upon a dispute ;

provided that, if the board is so engaged on any day for less than three hours, no payment shall be made under this section to a member in respect of that day, unless the Minister is satisfied that the board was on that day engaged in concluding an investigation or report thereof.

(2) Every member of the board shall receive all reasonable expenses to which he may be put for travelling, and subsistence while travelling, in the course of his duties as a member, and if any question arises as to whether any such expenses are reasonable, it shall be determined by the Minister, whose decision shall be final and conclusive.

13. (1) All expenditure, incurred by or on the order of the board, including

Certification of expenses, etc.

(a) the fees and allowances mentioned in the last preceding section ;

(b) travelling and subsistence allowances to witnesses and other persons acting under the orders of the board ;  
 (c) all other expenditure which may be incurred on the authority of the board, in accordance with regulation, shall be paid out of the general revenue of the Colony, but only upon presentation of vouchers in the prescribed form certified by the chairman of the board.

(2) It shall be the duty of such chairman to transmit, from time to time, to the Minister the vouchers so certified, together with a detailed statement, likewise certified, of the sittings or meetings of the board, and of the members present at such sittings or meetings.

14. The department shall, if requested by the chairman of the board, provide a secretary thereof (who shall, if possible, be an officer in the Public Service), and shall further provide any such clerical assistance as the Minister may deem necessary for the effectual exercise of the functions of the board.

15. (1) Before exercising any of his functions, every member of the board shall take before a justice of the peace, an oath of office and secrecy in the Forms A and B, respectively, of the Schedule to this Act.

(2) The secretary, if required by the chairman, shall, in like manner, take an oath of secrecy before or at any time during the sittings of the board.

#### CHAPTER IV.

#### PROCEDURE BEFORE, AND POWERS, DUTIES, AND JURISDICTION OF BOARDS.

16. As soon as may be after the appointments to the board are complete, the inspector shall transmit to the chairman thereof

(a) a copy of the application and the statement and declarations accompanying the same ;

(b) a copy of any statement in reply ;

(c) the names of the members of the board ;

(d) a copy of the notice mentioned in this section ;

and, after consultation with the chairman of the board, the inspector shall further give to the parties written notice of

(i) the date, hour, and place at which the board will sit to investigate the dispute ; and

(ii) the names of the members of the board, and shall, by such notice, summon the parties to appear at such hour and place, with the witnesses (if any) whom they desire to have examined, and place before the board the arguments and evidence in support of their several cases.

17. (1) Two members of the board, one of whom shall be the chairman, shall constitute a quorum of the board, unless it is shown, in the absence of the other member, that insufficient notice of the meeting or sitting was given to him ; provided that if, under the provisions of sub-section (3) of section *ten*, the board consists of five, seven, or nine members, the quorum of the board shall be respectively three, four or six members.

Secretary of board and clerical assistance.

Oath of office and secrecy.

Mode of bringing parties to dispute before the board.

Quorum of board and decision of majority.

(2) Any decision, finding, report, or recommendation of the majority of the board shall be deemed to be the decision, finding, report, or recommendation of the board.

18. (1) Any party to a dispute may appear before the board

(a) in the case of an individual employer, in person; or

(b) by any persons (not exceeding three in number) appointed by the party for the purpose, not being persons described in paragraph (c); or

(c) if the other party to the dispute consents, by an advocate or attorney of the Supreme Court qualified to practise therein, or by a duly admitted law agent qualified to practise in a court of resident magistrate.

Appearance of parties before the board.

(2) Every party so appearing shall be bound by the acts of its representatives.

(3) If any party to a dispute fails so to appear at any time, the board may, unless satisfied that the failure to appear was due to a reasonable cause, proceed as if such party were appearing.

19. The sittings of the board shall, as far as possible, be held in the vicinity of the premises in, or in respect of which, the dispute has occurred, unless the board otherwise determines.

Where sitting of board to be held.

20. (1) The board shall hold its sittings in public; provided that if, on application or of its own motion, it shall determine that any part of its sittings be held in private, it may order all persons (other than the persons appearing before it, the witnesses under examination, and the officers of the board) to withdraw.

Publicity or not of proceedings and documents in discretion of the board.

(2) No document produced before the board or any information obtained from such document shall be made public, save in so far as the majority of the board may authorize publication; and the board may order or cause to be sealed up, such portions of books, papers, or documents produced before it as do not, in its opinion, relate to any particular issue which it is considering.

21. (1) The board shall have, for the purposes of the investigation and any report and recommendations thereof

(a) the powers and jurisdiction of the Supreme Court in relation to summoning and enforcing the attendance of witnesses;

(b) the power to call for the production of books, papers, and other documents, and of any article or thing which it deems requisite for fully investigating and reporting upon the dispute;

(c) the power to examine witnesses upon oath (such oath being administered by the chairman).

(2) Any person summoned to attend and give evidence before the board or to produce books, papers, or other documents, or any article or thing, who shall fail, without sufficient cause, to comply with the terms of the summons, shall be guilty of an offence and liable on conviction before a court of resident magistrate having jurisdiction, to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment for a period not exceeding three months.

Powers of board as to examination of witnesses, production of documents, etc.

(3) Any person, whether summoned or not, who shall, while under examination, refuse to answer or fail to answer satisfactorily

(b) travelling and subsistence allowances to witnesses and other persons acting under the orders of the board ;  
 (c) all other expenditure which may be incurred on the authority of the board, in accordance with regulation, shall be paid out of the general revenue of the Colony, but only upon presentation of vouchers in the prescribed form certified by the chairman of the board.

(2) It shall be the duty of such chairman to transmit, from time to time, to the Minister the vouchers so certified, together with a detailed statement, likewise certified, of the sittings or meetings of the board, and of the members present at such sittings or meetings.

Secretary of board and clerical assistance.

14. The department shall, if requested by the chairman of the board, provide a secretary thereof (who shall, if possible, be an officer in the Public Service), and shall further provide any such clerical assistance as the Minister may deem necessary for the effectual exercise of the functions of the board.

Oath of office and secrecy.

15. (1) Before exercising any of his functions, every member of the board shall take before a justice of the peace, an oath of office and secrecy in the Forms A and B, respectively, of the Schedule to this Act.

(2) The secretary, if required by the chairman, shall, in like manner, take an oath of secrecy before or at any time during the sittings of the board.

#### CHAPTER IV.

#### PROCEDURE BEFORE, AND POWERS, DUTIES, AND JURISDICTION OF BOARDS.

Mode of bringing parties to dispute before the board.

16. As soon as may be after the appointments to the board are complete, the inspector shall transmit to the chairman thereof

(a) a copy of the application and the statement and declarations accompanying the same ;

(b) a copy of any statement in reply ;

(c) the names of the members of the board ;

(d) a copy of the notice mentioned in this section ;

and, after consultation with the chairman of the board, the inspector shall further give to the parties written notice of

(i) the date, hour, and place at which the board will sit to investigate the dispute ; and

(ii) the names of the members of the board, and shall, by such notice, summon the parties to appear at such hour and place, with the witnesses (if any) whom they desire to have examined, and place before the board the arguments and evidence in support of their several cases.

Quorum of board and decision of majority.

17. (1) Two members of the board, one of whom shall be the chairman, shall constitute a quorum of the board, unless it is shown, in the absence of the other member, that insufficient notice of the meeting or sitting was given to him ; provided that if, under the provisions of sub-section (3) of section *ten*, the board consists of five, seven, or nine members, the quorum of the board shall be respectively three, four or six members.

(2) Any decision, finding, report, or recommendation of the majority of the board shall be deemed to be the decision, finding, report, or recommendation of the board.

18. (1) Any party to a dispute may appear before the board

(a) in the case of an individual employer, in person; or  
(b) by any persons (not exceeding three in number) appointed by the party for the purpose, not being persons described in paragraph (c); or  
(c) if the other party to the dispute consents, by an advocate or attorney of the Supreme Court qualified to practise therein, or by a duly admitted law agent qualified to practise in a court of resident magistrate.

(2) Every party so appearing shall be bound by the acts of its representatives.

(3) If any party to a dispute fails so to appear at any time, the board may, unless satisfied that the failure to appear was due to a reasonable cause, proceed as if such party were appearing.

19. The sittings of the board shall, as far as possible, be held in the vicinity of the premises in, or in respect of which, the dispute has occurred, unless the board otherwise determines.

20. (1) The board shall hold its sittings in public; provided that if, on application or of its own motion, it shall determine that any part of its sittings be held in private, it may order all persons (other than the persons appearing before it, the witnesses under examination, and the officers of the board) to withdraw.

(2) No document produced before the board or any information obtained from such document shall be made public, save in so far as the majority of the board may authorize publication; and the board may order or cause to be sealed up, such portions of books, papers, or documents produced before it as do not, in its opinion, relate to any particular issue which it is considering.

21. (1) The board shall have, for the purposes of the investigation and any report and recommendations thereof

(a) the powers and jurisdiction of the Supreme Court in relation to summoning and enforcing the attendance of witnesses;

(b) the power to call for the production of books, papers, and other documents, and of any article or thing which it deems requisite for fully investigating and reporting upon the dispute;

(c) the power to examine witnesses upon oath (such oath being administered by the chairman).

(2) Any person summoned to attend and give evidence before the board or to produce books, papers, or other documents, or any article or thing, who shall fail, without sufficient cause, to comply with the terms of the summons, shall be guilty of an offence and liable on conviction before a court of resident magistrate having jurisdiction, to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment for a period not exceeding three months.

(3) Any person, whether summoned or not, who shall, while under examination, refuse to answer or fail to answer satisfactorily

Appearance of parties before the board.

Where sitting of board to be held.

Publicity or not of proceedings and documents in discretion of the board.

Powers of board as to examination of witnesses, production of documents, etc.



to the best of his knowledge and belief, all questions lawfully put to him by or with the concurrence of the board, and every person who shall, at any sitting of the board, wilfully insult any member thereof, or wilfully interrupt its proceedings, or shall, at any time, obstruct or hinder a member of the board in the discharge of his duties, or conduct himself toward such member in an intimidating manner (whether by language or conduct), shall be guilty of an offence and liable to the penalty prescribed by sub-section (2), or to imprisonment, without the option of a fine, for the period therein mentioned. The board may order any such person insulting a member thereof, or interrupting its proceedings, to be removed from the sitting.

(4) Any person who, after being duly sworn as a witness, wilfully and corruptly gives false evidence before the board concerning any matter material to the investigation, shall be liable on conviction to the penalties prescribed by law for perjury.

(5) Nothing in this section contained shall be construed as depriving any witness of any privilege in respect of answering questions or producing documents, if he would be entitled to such privilege in answering questions or producing documents before the Supreme Court.

(6) Save as aforesaid, the board, in conducting an investigation, shall not be bound by the law of evidence in force in this Colony as to the admissibility of evidence and the competency, examination, and cross-examination of witnesses.

Powers of  
entry and  
inspection.

22. (1) The board, or any member thereof, and any other person authorized in writing by the chairman of the board, may, at any time, enter upon any premises in or in respect of which any industry or trade or occupation is being carried on, or in which there is taking, or has taken place, any occurrence which concerns the investigation being held by the board.

(2) Upon entering upon such premises the board, or member thereof, or person aforesaid, may inspect and view any work, material, machinery, appliance, or article therein or thereon, and interrogate any person at work in or about such premises in relation to such trade, industry, occupation, or occurrence.

(3) Any person who obstructs or hinders the board, or member, or person aforesaid, in the exercise of the powers by this section conferred, or refuses to answer any interrogation lawfully put to him, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment for a period not exceeding three months.

Employment  
of assessors  
or experts.

23. The board may, with the consent of the Minister, call in assessors or employ persons approved by him, to examine the books, papers, and other documents of either party, or to advise the board upon technical matters or other facts material to the investigation, but it shall not disclose, or permit to be disclosed, the results of examining such books, papers, or documents, except with the consent of both parties to the dispute.

General  
jurisdiction  
and duties  
of board.

24. (1) Every board appointed to investigate a dispute shall use its utmost endeavours to settle the dispute which it is

appointed to investigate, and for that purpose shall, as expeditiously as may be, inquire into the causes and subject of the dispute and all matters incidental thereto, and affecting the merits thereof.

(2) In the course of the investigation it may make all such suggestions and do all such things as it may deem expedient and proper, to induce the parties to agree to a fair and equitable settlement.

(3) The board may adjourn its sittings from time to time and from place to place, prescribing such period as it deems reasonable for allowing the parties to agree upon terms of settlement. The time and place to which any sittings may be adjourned shall be notified to the persons appearing for the parties.

25. (1) Either party to the dispute may, at any time before or after the conclusion of the investigation, agree to be bound by the recommendations of the board in the same manner as parties to a submission under the Arbitration Ordinance 1904 are thereunder bound, and any agreement between the parties to be so bound may be made a rule of court and enforced in the same manner as an award which has been made a rule of court under section *seventeen* of the said Ordinance, and may be enforced as provided by that section.

Circumstances under which recommendations may be enforced as like an arbitration board.

(2) The draft of every such agreement may be transmitted by either party to the inspector, who shall send a copy thereof to the other party; if such other party agrees to be bound by the recommendations of the board, then such recommendations may be made a rule of court and enforced in manner aforesaid.

(3) Save as aforesaid, the report or recommendations of the board, or any proceedings had before it, shall not be enforced by any court of law.

26. (1) If a settlement of the dispute be effected between the parties while it is being investigated by the board, a memorandum of the settlement shall be drawn up by the board and signed by each of the parties.

Memorandum of settlement where the settlement effected during investigation by the board.

(2) Every such memorandum shall, if the parties agree to be thereby bound, be as binding and effectual as if made upon recommendations of the board under section *twenty-five*.

(3) A copy of such memorandum so signed, together with the report of the proceedings of the board, shall, as soon as possible, be transmitted to the Minister.

27. (1) If a settlement of the dispute be not effected between the parties while it is being investigated by the board, the chairman thereof shall, as soon as may be after the conclusion of the investigation, transmit to the inspector, by registered post, a full report in writing of the investigation, setting forth

When settlement not effected during investigation by the board.

(a) all the facts and circumstances ascertained by it, and, in particular, the cause or causes of the dispute;

(b) a chronological account of the proceedings had before it;

(c) the steps (if any) taken by the board during the proceedings to effect a settlement of the dispute;

(d) the findings of the board and its recommendations for the settlement of the dispute in accordance with the merits thereof and with equity.

(2) The recommendations shall be signed by such members of the board as concur therein, and shall be addressed to the Minister.

(3) The recommendations of any member of the board who dissents from its recommendations, shall likewise be signed by such member and transmitted through the inspector addressed to the Minister.

(4) All such recommendations shall deal with every issue of the dispute, and shall state, in plain and concise language, omitting technicalities as far as possible, the opinions of the signatories as to what ought or ought not to be done by either party.

If the signatories are of opinion that any settlement proposed ought to remain in force for a definite period, such period shall be stated.

Publication of reports and recommendations of board and of any minority recommendations.

28. (1) Upon receipt of the report and recommendations of the board, the Minister shall forthwith cause copies thereof to be published in the *Gazette*, to be sent to all the parties to the dispute, and, upon request made on behalf of any newspaper circulating in the Colony, to be sent to such newspaper for publication therein.

(2) The Minister may further cause any copies of the report and recommendations of the board to be published or circulated in any other manner which he may deem desirable for the purpose of securing compliance with the board's recommendations. The Minister shall give like publicity to the recommendations of any dissenting member of the board.

(3) The department shall, upon application and payment of the fee prescribed by regulation, supply certified copies of such reports and recommendations to any person.

(4) The report and recommendations of the board and the recommendations (if any) of a dissenting member of the board shall further be laid on the tables of both Houses of Parliament, if Parliament be then in Session, or if it be not then in Session, within seven days after the commencement of its next ensuing Session.

(5) The provisions of section *thirty-seven* of the Powers and Privileges of Parliament Act, 1907, shall apply *mutatis mutandis* to such reports and recommendations as are in this Act mentioned, immediately upon publication thereof as if they were such publications as are in the said section described.

Courts of law not to recognize reports of or evidence before board except in case of perjury.

29. No proceedings had or evidence given before a board shall be cognizable before any court of law in this Colony, for any purpose whatsoever, save as is otherwise provided in this Act in respect of offences thereunder.

## CHAPTER V.

## MISCELLANEOUS.

30. (1) Any member or officer of the board who, whether for himself or for any other person, corruptly solicits or receives, or agrees to receive from any person any fee, advantage, or reward, whether pecuniary or otherwise, as an inducement to, or in consideration of, or otherwise on account of his acting or forbearing to act in conflict with the oath of office or secrecy taken by him, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years, and shall *ipso facto* become disqualified for appointment to any public office for a period of seven years from the date of such conviction.

Penalty on members or officer of the board accepting bribes and on person offering bribes to such member or officer.

(2) Any person who directly or indirectly gives, offers, or promises to a member or officer of the board, any fee, advantage, or reward, whether for the benefit of such member or officer or of another person, as an inducement for such member or officer to act or forbear to act in conflict with the oath of office or secrecy taken by him, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years, and to a fine not exceeding five hundred pounds, or in default of payment, to a further period of imprisonment, not exceeding two years.

31. Any person who, three months after the coming into operation of this Act, shall be carrying on a private registry office without having registered the same with the department, or who, being the keeper or person in charge of such office, shall at any time fail on the request of the inspector or person authorized by the inspector to produce for inspection the books of such office or to give any information as to the business carried on thereat reasonably required of him or who, being a keeper or person in charge of such an office, shall charge fees at a higher rate than is prescribed under this Act by the inspector or charge a fee where no fee has been so prescribed, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding three months.

Penalty for not registering private registry offices or failing to allow inspection of books thereat.

32. Whenever any person shall be charged with an offence under this Act, the registrar or clerk of the court before which such person is charged shall, within one month thereafter and whether or not a conviction is obtained, report concisely in writing to the inspector the particulars of the charge, the verdict or judgment thereon, and the sentence (if any) passed by the court.

Prosecutions under Act to be reported to Inspector of White Labour.

33. (1) In any proceedings against an incorporated company for an offence under this Act, the secretary, and every director or manager thereof in this Colony, may be charged with such offence and shall be liable to be punished therefor, unless he proves that he was in no way a party thereto.

Liability to punishment in case of offences against this Act by corporate bodies partnerships and trades unions.

(2) In like proceedings against a local authority the mayor, chairman, town clerk, secretary, or other similar officer shall be liable to be so charged with, and in like circumstances, punished for the offence.

(3) In like proceedings against a partnership every member in this Colony of such partnership shall be liable to be so charged, and in like circumstances, punished for the offence.

(4) In like proceedings against a trade union, the president, secretary, and every other officer thereof in this Colony shall be liable to be so charged, and in like circumstances, punished for the offence.

(5) Provided that nothing in this section contained shall be deemed to exempt from liability any other person guilty of such offence.

Regulations.

\*34. (1) The Governor may, from time to time, make, alter, and rescind regulations, not inconsistent with this Act, prescribing

(a) the powers and duties of the inspector ;

(b) the forms of registers and other records to be kept by the inspector ;

(c) the forms of application for the appointment of a board and of any summons of parties or witnesses to attend its proceedings ;

(d) the fees and allowances which may be made to witnesses or to other persons acting on the orders of the board, and the forms of vouchers and receipts for any fees and allowances payable under this Act ;

(e) the fees payable to the department for registering any private registry office or for supplying copies of any report or recommendation mentioned in this Act ;

(f) what returns, statistics, information, and reports shall be furnished to the inspector, and the periods at which the same shall be furnished, by employers, masters of apprentices, and by trade unions ;

(g) penalties for any contravention of or default in complying with the regulations, not exceeding a fine of fifty pounds, or, in default of payment thereof, imprisonment for a period of six months ;

and, generally, for the better carrying out of the objects and purposes of this Act.

(2) All such regulations shall be of force and effect on publication in the *Gazette*.

(3) All such regulations shall, within seven days after such publication, be laid on the tables of both Houses of Parliament, if Parliament be then in Session, and, if Parliament be not then in Session, within seven days after the commencement of its next ensuing Session.

Defect in form not to invalidate proceedings of board.

35. No proceeding under this Act had before a board, nor any act or omission of a board, shall be deemed invalid by reason of any defect in form or technical irregularity.

Title and date of operation of Act.

†36. This Act may be cited for all purposes as the Industrial Disputes Prevention Act, 1909, and shall not come into operation, unless and until the Governor shall declare, by proclamation in

\* For regulations see Govt. Notice No. 251 of 1910 (*Gazette*, 11/3/10).

† For Royal assent and date of operation (1st January, 1910) see Proc. (Admn.) No. 99 of 1909.

the *Gazette*, that it is His Majesty's pleasure not to disallow the Act, and thereafter it shall come into operation on such date as the Governor may, by like proclamation, declare.

*SCHEDULE.*

FORM A.

*Oath of Office.*

I,....., do promise and swear that I will faithfully and diligently carry out, to the best of my ability, the several powers, jurisdiction, and duties conferred and imposed upon me under the Industrial Disputes Prevention Act, 1909, in investigating the dispute between..... employer and their  
his employees, and will be just and equitable in carrying out such powers, duties, its and jurisdiction, and will act rightly as between the parties to the dispute, in accordance with the said Act and any other law without fear, favour, affection, prejudice, or ill-will.

SO HELP ME GOD.

Before me this.....day of.....19.....

*Justice of the Peace.*

FORM B.

*Oath of Secrecy.*

I,....., do promise and swear that I will not communicate or divulge any of those proceedings of the board which have, under section *twenty* of the Industrial Disputes Prevention Act, 1909, been conducted in private, or any evidence given or statements made at such proceedings, and further that I will not divulge the contents of any book or document produced before the board, or of any report or recommendation of the board, or of any member thereof, unless authorized in writing by the board.

SO HELP ME GOD.

Before me this.....day of.....19.....

*Justice of the Peace.*

Act No. 21 of 1909.]

[Promulgated 16th July, 1909.]

AN ACT

TO AMEND THE CO-OPERATIVE AGRICULTURAL SOCIETIES ACT  
1908 (ACT NO. 17 OF 1908).

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

Dealings with other societies to be included in lawful objects of a society.

1. Whenever any of the objects of a co-operative agricultural society are such dealings between its members as are described in section *four* of Act No. 17 of 1908, similar dealings with other co-operative agricultural societies shall be deemed to be included among its lawful objects, anything in the said section *four* to the contrary notwithstanding.

Two or more preliminary meetings at different places and different times to be deemed one meeting for the purpose of section *seven* of Act No. 17 of 1908.

2. (1) For the purposes of section *seven* of the said Act the holding of any two or more meetings of members at different places and on different dates shall be deemed to be the holding of such a meeting as is in that section described, if the provisions of that section be complied with in respect of each of those meetings.

(2) Notwithstanding anything to the contrary in that section contained, it shall not be necessary for a meeting or meetings held under that section as hereby amended to select thereat the first auditor of the society.

Lists of members to be transmitted to registrar before registration.

\* 3. (1) In addition to the particulars which by the said Act a society is required to transmit to the registrar of co-operative agricultural societies before it can obtain registration, the society shall also transmit to the registrar a list containing the full name, the true signature, the occupation, and the address of each member of the society.

(2) In the case of a co-operative agricultural society registered prior to the date of the coming into operation of this Act, the provisions of sub-section (1) of this section shall be deemed to be complied with, if the said list be transmitted to the registrar within three months after that date. If within that period, or within such further period as the Minister of Agriculture may allow, the said list be not so transmitted, the said Minister may order the name of the society to be removed from the register of co-operative agricultural societies.

(3) A society shall not be capable of raising money by way of loan until the provisions of this section have been complied with, anything in the said Act to the contrary notwithstanding.

(4) The said list when transmitted to the registrar shall be filed by him in his office amongst the documents relating to the society and shall be open to the inspection at all reasonable hours of any member of the board or staff of the Land and Agricultural Bank, without charge, and of any other person on payment of such fee as the said Minister may prescribe.

(5) The board of directors of every society shall, within fourteen days after any change takes place in the membership of the society, whether by new admissions, death, resignation, or expulsion, transmit full information thereof, and in the case of a new admission, shall transmit to the registrar the new member's true signature.

(6) Every such list of members with all the particulars specified in sub-section (1) of this section when transmitted to the registrar of co-operative societies shall be published by him in the *Gazette*, and, whenever such registrar shall receive any information of any change in such list of members, he shall publish in the *Gazette* a supplementary list of all members who since the publication of the last list have become or have ceased to be members of the society.

(7) The said registrar shall be entitled to assume that every person whose name appears on any such list or supplementary list is a member of the society unless, within fourteen days after the publication thereof, any person shall satisfy him that he is not a member of the society.

(8) Whenever the Land and Agricultural Bank shall require evidence of the membership of any society, the said registrar at the request of the said Bank shall transmit to it a complete list of members for the time being of that society, duly certified by his signature.

Every such list so certified shall be *prima facie* evidence in favour of the said Bank that every person whose name appears in the list was a member of the society at the date thereof.

(9) Sub-section (2) of section *twenty-three* of the said Act shall be and is hereby repealed.

4. Anything to the contrary notwithstanding in section *sixteen* of the said Act, it shall be sufficient if the annual general meeting of a co-operative agricultural society be held within two months after the close of its financial year.

Amendment of section *sixteen* of Act No. 17 of 1908 as to period of holding annual general meeting.

5. For the purposes of section *nineteen* of the said Act the holding of two or more special meetings at different places on different dates shall be deemed to be the holding of such a special meeting as in that section is described, if the provisions of that section be complied with in all other respects at and as regards each of those meetings. Provided that it shall not be necessary that the quorum prescribed in sub-section (3) of section *seventeen* of the said Act be present at more than one of such meetings; provided further that the chairman of the board or one of the directors of the society shall preside at each of such meetings.

Two or more special meetings at different times and places to be deemed to be one meeting for the purposes of section *nineteen* of Act No. 17 of 1908.



*Co-operative*

A.D. 1909. [*Agricultural Societies Amendment.*] [Act No. 21.]

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Exemption from trading licences to extend to business dealings with other societies.

6. The exemption granted to co-operative agricultural societies by section *twenty-six* of the said Act from the necessity of obtaining trading licences, shall apply also, in so far as concerns the business dealings of such a society with other such societies.

Extension of provisions of Act No. 17 of 1908 to Government co-operative societies.

7. The Minister of Agriculture may from time to time by notice in the *Gazette* apply all or any of the provisions of the said Act to any societies established to further co-operation in any agricultural or rural industry, and maintained or aided out of moneys appropriated by Parliament.

Title and date of operation of Act.

8. This Act may be cited for all purposes as the Co-operative Agricultural Societies Amendment Act 1909, shall be read as one with Act No. 17 of 1908, and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

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\* The Act was first published in the *Gazette* on the 16th July, 1909.

Act No. 22 of 1909.]

[Promulgated 16th July, 1909.]

AN ACT

TO AMEND THE RAND WATER BOARD STATUTES, 1903 TO 1906.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal, as follows :—

1. Section *one* of the Rand Water Board Incorporation Ordinance 1903 shall be and is hereby amended by the deletion therefrom of the words "Witwatersrand District" and the substitution for those words of the words "Magisterial Districts of Johannesburg, Boksburg, Germiston and Krugersdorp".

Amendment of section *one* of Ordinance No. 32 of 1903.

2. Sections *fourteen*, *fifteen* and *sixteen* of the Rand Water Board Extended Powers Ordinance, 1904, and section *two* of the Rand Water Board Extended Powers Amendment Ordinance, 1905, shall be and are hereby repealed.

Repeal of certain provisions of Rand Water Board Statutes.

3. (1) In addition to any powers of supply which may be acquired by the Board under the provisions of section *ten*, the Board may supply water in bulk to any local authority and in bulk or in retail

Powers of supply.

(a) to the Administration of the Central South African Railways, to any mines within the limits of supply, or to any consumer carrying on within the said limits any undertaking for the supply of traction or for the generation and supply of light, heat, and power, or for the treatment of ores or bye-products, or for any purpose whatsoever incidental to mining ;

(b) to any consumer within the limits of supply, but outside the area of any such local authority ; and

(c) to any consumer within the area of any local authority with the consent of such local authority but not otherwise.

(2) "Consumer" in this Act shall mean any person to whom water may be supplied by the board, other than local authorities or mines as defined in the Rand Water Board Statutes, 1903 to 1906.

4. (1) All water supplied by the Board to any local authority, mine, or consumer shall be paid for at the price fixed by the Board. Payment shall be made at the Board's offices on or before the fifteenth day of each month in respect of water supplied during the preceding month.

Payment for water supplied and interest on payments in arrears.

(2) On all sums which shall have become due in respect of water supplied during any month, and which are not paid as herein provided on or before the fifteenth day of the next succeeding month, interest shall be chargeable and recoverable by the Board at the rate of one per cent. for every month or portion of a month during which those sums shall remain unpaid.

(3) Such interest shall be reckoned from the ~~last~~ day of the month in which the sums in question shall have become payable as provided in sub-section (1), and shall be recoverable in the same manner as sums due in respect of water supplied.

Contributions by holders of mining title and local authorities to meet interest and redemption on Rand Water Stock.

5. (1) As from the first day of October 1909 the Board shall divide into two equal parts the fixed charges in respect of all Rand Water Stock issued prior to the taking effect of this Act after deducting therefrom an amount equal to

(a) the interest receivable by the Board during the year from the investment of any unexpended balances of the proceeds of the issue of such stock ;

(b) any revenue received by the Board in such year in excess of that necessary to provide for the payments specified in paragraphs (a) (b) and (c) of sub-section (4) of section *nine* ; and shall levy a contribution equal to each such part from the holders of mining titles within the limits of supply as provided in the next succeeding section and from the local authorities respectively.

(2) The contribution to be levied from the holders of mining titles is hereinafter referred to as "the mining contribution" and that to be levied from the local authorities as "the municipal contribution", and each such contribution shall be levied half-yearly in accordance with the provisions of this Act.

(3) The term "fixed charges" in this Act shall mean the annual payments specified in sub-sections (1) and (2) (e) of section *seventy-one* of the Rand Water Board Extended Powers Ordinance 1904.

Provisions for recovery of contributions levied on tonnage crushed.

6. The mining contribution shall be levied and recovered in the following manner:—

(1) The Government Mining Engineer shall, on or before the thirtieth day of April 1910 and thereafter on or before the thirty-first day of October and the thirtieth day of April in every year, transmit to the Board a statement showing the number of tons of ore, earth, or other mineral substances crushed or milled for the extraction of gold during the six months ended on the last day of the preceding month from ground within the limits of supply held under claim licence, mynpacht brief, mining lease, or other mining title, together with the name and address of every holder of such a claim licence, mynpacht brief, mining lease, or other mining title and the number of tons crushed or milled as aforesaid from that ground.

(2) On receipt of every such statement the Board shall apportion the mining contribution among the said holders in proportion to the number of tons of ore, earth, or other mineral substance shown in such statement as having been crushed or milled from ground held by them respectively.

(3) The Board shall transmit to each of the said holders at the address shown in the statement a notice specifying the amount payable by him, ascertained as aforesaid, and the Board shall further specify in the notice the date on which payment is to be made. The date so specified shall be not less than twenty-one days after the transmission of the notice and shall be advertised by the Board, in a newspaper published and circulating in Johannesburg, not less than twenty-one days prior to that date.

(4) A statement transmitted by the Government Mining Engineer under sub-section (1) of this section shall be conclusive evidence of the number of tons of ore, earth, or other mineral substance crushed or milled by any such holder therein mentioned during the period covered by that statement.

(5) All amounts payable under the provisions of this section shall become due and payable on the date fixed by the Board as aforesaid.

(6) If any such amount be not paid on or before that date, interest at the rate of one per cent. per month or portion thereof on the amount unpaid shall be charged by the Board.

(7) All moneys due under this section to the Board may be recovered by it by action in any competent court.

7. The municipal contribution shall be levied and recovered in the following manner :—

Provisions for recovery of contributions payable by local authorities.

(1) The Board shall apportion in accordance with the provisions of section *sixty-four* of the Rand Water Board Extended Powers Ordinance 1904 the amount so to be raised among the local authorities ; provided that the total valuation of each such local authority shall, for the purpose of the apportionment, be reduced by the amount of the valuation of all rateable property held under claim licence, mynpacht brief, mining lease, or other mining title included in that valuation. For the purposes of this section the Town Clerk of each local authority shall, in complying with the provisions of section *fifty-nine* of the Rand Water Board Extended Powers Ordinance 1904, distinguish between the value of property held under claim licence, mynpacht brief, mining lease, or other mining title and the value of other property.

(2) If any such local authority shall have failed to comply with the provisions of section *fifty-nine* of the Rand Water Board Extended Powers Ordinance 1904, the total valuation of that local authority for the purposes of the municipal section of the rating roll of the Rand Water Board shall be deemed to be the valuation appearing in the rating roll last made by that local authority, or, if no rating roll has been made, the valuation appearing in a rating roll which the Governor shall in that event cause to be made for the purposes of this section.

(3) The provisions of section *sixty-six* and *sixty-nine* of the Rand Water Board Extended Powers Ordinance 1904 are

hereby made applicable to the payment and recovery of all amounts payable by local authorities under this section; provided that any special rate, which it may be necessary for any such local authority to levy in order to provide the amounts hereby made payable, shall not be levied in respect of any property held under claim licence, mynpacht brief, mining lease, or other mining title within the area of that local authority; provided further that any surplus raised by any such rate shall, after providing the sums hereby made payable, be applied in reduction of the next succeeding contribution payable by that local authority under the provisions of this Act.

(4) The first apportionment under this section shall be made in respect of the period from the first day of October 1909 to the thirty-first day of March 1910, and every succeeding apportionment shall be made for the several periods of six months succeeding.

(5) The precept issued by the Board to any local authority shall specify a date (not being less than six weeks after the date of the precept) on or before which the amount apportioned by the Board under this section in respect of that local authority shall be paid.

(6) If any local authority shall fail to pay the amount apportioned in respect of it under this section on or before the date fixed in the precept, interest shall be chargeable on the amount unpaid at the rate of one per cent. per month or portion thereof from the date so fixed for payment. All such interest shall be recoverable as if it were part of the amount apportioned by the Board in respect of that local authority.

8. All amounts received by the Board under sections *six* and *seven* shall be applied by the Board in paying the fixed charges and to no other purpose.

9. (1) The Board shall, as from the first day of October 1909, charge a uniform rate for water supplied to all those holders of mining title, or local authorities, from whom the mining or municipal contributions respectively are levied.

(2) In respect of water supplied to consumers, or to holders of mining title, or to local authorities (other than those specified in the preceding sub-section) the Board shall, as from the first day of October 1909, charge a uniform rate which shall not be less than, and may exceed by not more than one hundred per cent., the rate fixed under the provisions of that sub-section.

(3) Notwithstanding anything in this section contained the Board may, subject to the approval of the Governor, make special agreements with any local authority, mine, or consumer, to supply water at a price lower than the uniform charges in the following cases:—

(a) where the water to be supplied is in the opinion of the Board of a quality rendering the same unfit for ordinary domestic or potable purposes;

(b) where the water prior to its being actually used or consumed is pumped into a dam, in which case allowance may

Application  
of contribu-  
tions.

Charges for  
water  
supplied by  
the Board.

be made by the Board in the price charged for loss due to leakage, evaporation, flooding, cost of re-pumping, or other like causes.

(4) The charges to be made by the Board for water supply shall not exceed an amount which in the opinion of the Board will be sufficient to provide for

(a) payment of all working costs incurred in carrying on the undertakings of the Board including all stamp duty and other expenses connected with the service and management of Rand Water Stock and also losses on investments made by the Board of moneys belonging to the Water Fund created by section *fifty-five* of the Rand Water Board Extended Powers Ordinance 1904 ;

(b) payment of any sum which may be required, in addition to the amounts received under the preceding sections, to meet fixed charges ;

(c) any amount which the Board may be empowered to set aside as a reserve fund under the provisions of section *fifty-six* of the Rand Water Board Extended Powers Ordinance 1904, and that section shall be construed as if the word "profits" therein means any revenue received by the Board over and above what is necessary to provide for the payments specified in paragraphs (a) and (b) of this sub-section, but not including mining or municipal contributions.

10. (1) The Board may enter into an agreement with any local authority (as by the Rand Water Board Statutes 1903 to 1906 defined) and notwithstanding anything in the law governing the powers of that local authority, it may enter into an agreement with the Board, for the acquisition by the Board and the transfer to it by the local authority of the water undertaking of that local authority.

Transfer to Board by agreement of water undertaking of constituent local authority.

(2) No such agreement shall be of any validity whatsoever until the Governor shall, by proclamation in the *Gazette*, have declared his approval thereof ; but, from and after the date of the taking effect of that proclamation and so long as it remains in force, the Board shall be deemed to have all the powers and shall be subject to all the duties, conferred or imposed by law upon that local authority in respect of the water undertaking of that local authority, and so long as that proclamation remains in force the powers and duties conferred or imposed by law upon that local authority in respect of its water undertaking shall be in abeyance.

(3) Notwithstanding anything contained in the preceding section, if the Board shall acquire the water undertaking of any local authority under the provisions of this section it may impose such additional charges in respect of the supply of water by means of such undertaking as shall be sufficient to provide for the cost of carrying on such undertaking, including rent (if any), and for the payment of interest and redemption on any Rand Water Stock the proceeds of which have been used for the acquisition, improvement, or extension of such undertaking, provided that no

contribution shall be leviable under this Act in respect of the fixed charges on any Rand Water Stock the proceeds of which have been so applied.

(4) The powers transferred to the Board from any local authority under the provisions of this section shall not include any borrowing powers, but the Board may exercise in respect of any water undertaking so transferred to it any borrowing powers which may from time to time be vested in it.

Amendment  
of section  
*ninsty-seven*  
of Ordinance  
No. 48 of 1904.

11. Section *ninsty-seven* of the Rand Water Board Extended Powers Ordinance 1904 shall be and is hereby amended by the deletion therefrom of the words "and this report shall be laid annually before the Legislative Council by the Colonial Secretary".

Duration of  
Act.

12. The provisions of sections *five* to *eight* inclusive of this Act shall cease to be of force as soon as all Rand Water Stock authorized at the coming into operation of this Act shall have been redeemed and all interest due in respect thereof shall have been paid.

Title and date  
of operation  
of Act.

13. This Act may be cited for all purposes as the Rand Water Board Further Powers Act, 1909, shall be read as if it were incorporated with the Rand Water Board Statutes, 1903 to 1906, and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

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\* The Act was first published in the *Gazette* on the 16th July, 1909.

Act No. 23 of 1909.] [Promulgated 16th July, 1909.]

AN ACT

TO MAKE PROVISION FOR THE ELECTION OF COUNCILLORS OF CERTAIN MUNICIPALITIES IN ACCORDANCE WITH THE PRINCIPLE OF PROPORTIONAL REPRESENTATION.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. In this Act unless inconsistent with the context "commencement of this Act" shall mean the date upon which this Act came into operation;

Interpretation of terms.

"Governor" shall mean the officer for the time being administering the Government of this Colony acting by and with the advice of the Executive Council thereof;

"municipal election statutes" shall mean Ordinance No. 38 of 1903 as amended by Ordinance No. 49 of 1904, Ordinance No. 26 of 1905 and Ordinance No. 24 of 1906;

"municipality" shall mean the municipality of Pretoria or of Johannesburg or any other municipality to which this Act is under section two applied; and "the council" shall mean the council of any such municipality; and "councillor" shall mean a member of a council;

"the 1903 statute" shall mean Ordinance No. 38 of 1903.

2. (1) This Act shall apply to the municipalities of Pretoria and Johannesburg, and the laws mentioned in the First Schedule to this Act shall, to the extent set forth in the second column of that Schedule, no longer apply in respect of the election of councillors of those municipalities but shall be replaced by the provisions of this Act.

Application of Act.

(2) The Governor may from time to time by proclamation in the *Gazette* declare that this Act shall apply in respect of the election of councillors of any other municipality the council of which is, at the commencement of this Act, elected in accordance with the municipal election statutes, and where any particular year is fixed in respect of either of the municipalities mentioned in sub-section (1) may, in the application of this Act to any other municipality, fix other particular years.

(3) The Governor may further give such directions, not inconsistent with this Act, as he may consider expedient for properly applying the provisions of this Act to any such other municipality.



Wards of municipalities.

3. (1) The Governor may, by proclamation in the *Gazette*, declare the number of wards into which any municipality shall be divided for the purposes of this Act and determine the boundaries of such wards, and by like proclamation fix the number of councillors to be elected for each such ward.

(2) The Governor may from time to time by proclamation in the *Gazette* alter the boundaries of or increase or decrease the number of the wards of a municipality and in case of any such alteration, increase, or decrease, determine the boundaries of the wards.

(3) The Governor may from time to time by like proclamation increase or decrease the number of councillors of any municipality.

(4) No proclamation issued under this section shall take effect until the next ensuing triennial election.

Delimitation of boundaries of wards.

4. The boundaries of the wards of a municipality shall be so determined that each ward shall have an equal number of members and in such a manner that the number of voters in each ward shall, as far as possible, be equal, but in no case shall the number of voters in any ward be more than ten per cent. above or more than ten per cent. below that mean number of voters which represents exact equality, all fractions being disregarded.

Appointment of commission.

5. (1) Before exercising any of the powers mentioned in section *three* in respect of any municipality the Governor shall appoint a commission of one or more persons to consider and report as to the manner in which any such power should be exercised, and notice of the appointment, *personnel*, and first sitting of that commission shall be published in the *Gazette* and in a newspaper circulating in that municipality.

(2) The Governor shall, before every triennial election, appoint a commission of one or more persons to consider and report whether any re-division of the wards of a municipality or any alteration of the boundaries thereof is necessary or expedient.

(3) Any scheme prepared by a commission appointed under this section may be approved by the Governor with or without modifications.

(4) Every report of a commission appointed under this section shall be published once a week during three consecutive weeks by the Colonial Secretary in the *Gazette* and in a newspaper circulating in the municipality and, if the Governor shall have made any modifications in a scheme prepared by the commission, the Colonial Secretary shall simultaneously with the publication of that report publish those modifications.

(5) Any commission appointed under this section shall have all the powers jurisdiction and privileges mentioned in the Commissions Powers Ordinance 1902 as if they had been specially conferred upon it by section *five* thereof.

Making of new voters' roll.

6. Notwithstanding anything in the municipal election statutes contained, a new voters' roll shall be prepared in manner provided by the 1903 statute for the purpose of every triennial election, provided that, for the word "July" in sub-section (1) of section *seventeen* of the 1903 statute, the word "March" shall

for the purposes of this section be deemed to be substituted, and every commission acting under this Act shall have regard to that voters' roll.

7. (1) The councillors holding office in the municipalities of Pretoria and Johannesburg at the commencement of this Act shall continue in office until the date when their respective periods of office would, under the municipal election statutes, expire.

Existing councillors to continue in office till expiry of term of office under municipal election laws.

(2) An election shall be held in accordance with this Act and the Second Schedule thereto, on the last Wednesday in October in the year 1909, and a like election on the last Wednesday in October in the year 1910, for the purpose in each case of electing councillors to take the places of the councillors mentioned in sub-section (1) of this section.

(3) The councillors so elected shall continue in office until the day of the first triennial election hereinafter referred to.

(4) For the purposes of the said elections in 1909 and 1910 the municipality of Pretoria and the municipality of Johannesburg shall each be deemed to be one ward.

(5) For the purposes of any election held in terms of this section and of sub-section (3) of section *nine* the several wards of the municipalities of Pretoria and Johannesburg as defined by proclamation at the commencement of this Act shall respectively be deemed to be polling districts. There shall not be less than one polling station in each such district, and a voter shall be entitled to vote only at a polling station in the district in respect of which his name appears on the voters' roll.

8. (1) In the month of October 1911 and in that month in 1914 and in every succeeding third year there shall be an election of councillors (in this Act called the triennial election) in the municipalities of Pretoria and Johannesburg for the purpose of electing councillors to take the place of those who retire under the last preceding section. The councillors so elected shall continue in office until the day of the next ensuing triennial election.

Triennial elections in Pretoria and Johannesburg.

(2) Whenever at any triennial election a poll is required to be taken, such poll shall be taken on the last Wednesday in the month of October. That day shall be the day of the triennial election whether a poll is required to be taken or not.

9. The following provisions with regard to casual vacancies shall apply:—

Casual vacancies.

(1) A casual vacancy shall be deemed to be any vacancy except a vacancy caused by the retirement of a councillor on the expiry of the period of office for which he was elected.

(2) When and as often as any casual vacancy shall occur in the council, the councillor to be elected to fill that vacancy shall be elected in the manner provided for the election of councillors under this Act, provided that no election for the filling of casual vacancies shall be held in any ward unless the number of vacancies in that ward amounts to two or more; provided further that no election

for the filling of casual vacancies shall be held within six months prior to the triennial election or prior to an election provided for in sub-section (2) of section seven.

(3) In the election of a councillor to fill a casual vacancy occurring before the first triennial election in 1911, the municipality of Pretoria and the municipality of Johannesburg shall each be deemed to be one ward.

(4) A councillor elected to fill a casual vacancy shall hold office until the next ensuing triennial election.

Election of Mayor and Deputy-Mayor.

10. (1) At the first meeting of the Council held in November in every year the councillors present shall elect a councillor to be Mayor of the municipality and shall also elect a councillor Deputy-Mayor of the municipality.

(2) The Mayor and the Deputy-Mayor shall each forthwith enter upon his office and continue therein until his successor be appointed after the next ensuing election of Mayor or Deputy-Mayor (as the case may be), unless he sooner vacates his office. In that event a successor shall, at the meeting next but one of the council after the vacancy has occurred, be chosen by the councillors, and the successor chosen shall forthwith enter upon his office as Mayor or Deputy-Mayor (as the case may be) for the remainder of the period for which the vacating Mayor or Deputy-Mayor was elected.

(3) If a Mayor or Deputy-Mayor for any reason be not elected at a meeting as in this section mentioned he may be elected at the next ordinary meeting or at a special meeting called for the purpose.

Election of councillors in accordance with the principal of proportional representation.

11. (1) Every selection of councillors under this Act shall, whenever such an election is contested, be according to the principle of proportional representation. The method of voting and of transferring and counting votes and the duties of returning officers in connection therewith, shall be as prescribed in this Act and the regulations set forth in the Second Schedule thereto.

\* (2) The Governor may, from time to time by notice in the *Gazette*, alter or rescind such regulations, and any alteration or rescission shall be laid upon the tables of Parliament within seven days after publication in the *Gazette* if Parliament be then in Session, or, if it be not then in Session, within seven days of the commencement of the next ensuing Session.

Voting to be by ballot.

12. The voting at any election of councillors held under this Act shall be by ballot which shall be conducted, in substance and as nearly as possible, as follows:—

(1) The presiding officer at every polling station (hereinafter referred to as the presiding officer) shall ascertain that the person desiring to vote is a voter enrolled upon the voters' roll for the ward in which the polling station is situate and, having ascertained that such person is so enrolled and his number on such roll, shall enter his number upon the counterfoil in the ballot paper book and shall then tear out the ballot paper corresponding to that counterfoil, and, having stamped the ballot paper with a perforating stamp

\* For alterations see Govt. Notices Nos. 1163 of 1909 (*Gazette*, 8/10/09) and 1176 of 1909 (*Gazette*, 15/10/09, *erratum*).

provided for the purpose, shall hand it to the voter. Every ballot paper shall be in the form prescribed in the Third Schedule to this Act with such printed instructions as the council may order.

(2) When the voter has received a ballot paper, on which shall be printed in alphabetical order the names of all candidates duly nominated for election, he shall take the same to a compartment and desk provided for the purpose and signify in manner provided by the next succeeding section for whom he desires to vote. The voter shall then fold the ballot paper so that the perforated mark may be visible and, having held up the ballot paper so that the polling officer can recognize the perforated mark, shall drop the ballot paper in the ballot box placed in front of the polling officer.

(3) If the voter either sign his name on the ballot paper or write any word thereon or make any mark thereon by which his ballot paper would become recognizable, then that ballot paper shall be considered blank and not be taken into account.

13. (1) At any election under this Act every voter shall have one vote only.

Manner of voting.

(2) A voter in giving his vote

(a) must place on his ballot paper the numeral 1 in the space opposite the name of the candidate for whom he desires to vote ;

(b) may in addition place on his ballot paper the numeral 2 or the numerals 2 and 3, or 2, 3, and 4, and so on, each in the several spaces opposite the names of other candidates, in the order of his preference.

14. A ballot paper shall be invalid

Circumstances invalidating ballot paper.

(a) which does not bear the perforated mark ; or

(b) on which the single numeral 1 is not set opposite the name of one candidate ; or

(c) on which the single numeral 1 is set opposite the name of more than one candidate ; or

(d) which bears any mark or writing by which a voter can be identified otherwise than is in the 1903 statute prescribed ; or

(e) is unmarked or void for uncertainty.

15. The Governor may appoint a returning officer at any election under this Act and fix a fee to be paid to him by the council, and every such election shall be held before that returning officer ; provided that no candidate for election shall be appointed or act as returning officer thereat.

Appointment of returning officer.

16. (1) Any councillor who

(a) ceases to possess the qualifications required by the municipal election statutes or becomes disqualified thereunder ; -or

Circumstances in which a councillor vacates office.

(b) absents himself from the meetings of the council for four consecutive ordinary meetings without leave of the council ; or

(c) is a paid agent for a candidate at any election under this Act during his period of office ; shall *ipso facto* vacate his office and the Mayor shall at a meeting of the council, which shall if possible be the next meeting, declare the vacancy.

(2) If any person elected a councillor shall die or become disqualified or cease to be qualified or shall resign or refuse to accept office as councillor, or if a vacancy occurs in any other manner whatever, the vacancy shall forthwith be filled in manner prescribed by this Act.

(3) A councillor whose office has been declared vacant by the Mayor under this section may apply by motion to the Supreme Court, or to the Witwatersrand High Court if the matter be within the area of jurisdiction thereof, or, if such Court be not sitting, then to a Judge of the Supreme Court, to have the declaration of vacancy set aside ; provided that written notice of the intention to so apply shall be given to the Town Clerk within two days after the declaration of vacancy and the application to Court shall be made within fourteen days thereafter.

Provisions in municipal election statutes applied to elections under this Act unless excluded thereby.

17. Whenever any provision of the municipal election statutes is applicable to an election under this Act and its application to such an election has not been expressly excluded by section two of this Act, then that provision shall be applied, as far as possible, to like circumstances arising out of or in connection with such an election.

Title and date of operation of Act.

18. This Act may be cited for all purposes as the Municipal Elections (Proportional Representation) Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

**FIRST SCHEDULE.**

Laws declared inapplicable.	Extent to which inapplicable.
Ordinance 38 of 1903     ...     ...	Sections <i>one, seven, eight, twenty-one, twenty-two, twenty-three, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, forty, forty-one, forty-six, forty-seven</i> , and Schedule No. 1.
Ordinance 49 of 1904     ...     ...	Sections <i>one, two, three</i> , and <i>four</i> .
Ordinance 26 of 1905     ...     ...	Sections <i>two, three, four, five, eight</i> , and sub-section (1) of section <i>nine</i> .

**SECOND SCHEDULE.**

*Regulations for the Transfer and Counting of Votes and for ascertaining the result of the Poll.*

1. In these Regulations—
- (1) "*Unexhausted papers*" mean ballot papers on which a further preference is recorded for a continuing candidate.

\* The Act was first published in the *Gazette* on the 16th July, 1909.

- (2) "*Exhausted papers*" mean ballot papers on which no further preference is recorded for a continuing candidate, provided that a paper shall be deemed to be *exhausted* in any case in which
- (a) the names of two or more candidates whether already excluded from the poll or declared elected or not are marked with the same numeral and are next in order of preference, or
  - (b) the name of the candidate next in order of preference at any given time or of some candidate whether continuing or not higher in the order of the voters' preference is marked
    - (i) by a numeral not following consecutively after some other numeral on the ballot paper, or
    - (ii) by two or more numerals.
- (3) "*Continuing Candidates*" mean candidates not elected or not excluded from the poll at any given time.
- (4) "*First Preference*" means the numeral 1 set opposite the name of any candidate; second preference similarly means the numeral 2, third preference the numeral 3, and so on.
- (5) "*Original Votes*" in regard to any candidate mean the votes derived from ballot papers on which a first preference is recorded for such candidate.
- (6) "*Transferred Votes*" in regard to any candidate mean votes credited to such candidate derived from ballot papers on which a second or subsequent preference is recorded for such candidate.
- (7) "*Surplus*" means the number by which the votes of any candidate original or transferred exceed the quota.
- (8) "*Absolute majority*" means more than one half of all the votes for the time being counted in favour of candidates, no account being taken of exhausted votes given in favour of an excluded candidate.
2. In carrying out these rules the Returning Officer shall
- (a) disregard all fractions,
  - (b) ignore all preferences recorded for candidates already elected or excluded from the poll.

*Where one person only has to be elected.*

3. The ballot papers shall be mixed and the Returning Officer shall draw out all papers which he does not reject as invalid and divide them into parcels according to the first preferences recorded for each candidate. He shall then count the number of papers in each parcel. If any candidate obtains an absolute majority of votes he shall be declared elected.

4. If no candidate obtains an absolute majority, the Returning Officer shall exclude from the poll the candidate with the smallest number of votes, by examining his papers and transferring to other candidates the unexhausted papers according to the next preference recorded thereon; the Returning Officer shall in each case add the votes so transferred to the total of the votes of the candidate to whom the transfer is made.

5. Until some candidate obtains an absolute majority the Returning Officer shall in the same manner as directed by the preceding rule exclude from the poll the candidates not previously excluded, one after another, the candidate with the smallest number of votes, original or transferred, being always first excluded.

6. A candidate who as a result of any operation prescribed by the last preceding rule obtains an absolute majority shall be declared elected.

7. If at any time two or more candidates, one of whom ought to be excluded, have an equal number of votes, the Returning Officer shall determine by lot which of them shall first be excluded.

*When more than one person has to be elected.*

8. The ballot papers shall be mixed, and the Returning Officer shall draw out all ballot papers which he does not reject as invalid and divide them into parcels according to the first preferences recorded for each candidate. He shall then count the number of papers in each parcel.

9. The Returning Officer shall then add together the numbers of the papers in all the parcels and divide the total by a number exceeding by one the number of vacancies to be filled, and the result increased by one shall be the number of votes sufficient to secure the return of a candidate, herein called the "quota".

10. If at any time under these regulations a number of candidates equal to the number of persons to be elected has obtained the quota, such candidates shall be treated as elected and no further steps shall be taken.

11. (1) Any candidate whose parcel, on the first preferences being counted, contains a number of papers equal to or greater than the quota shall be declared elected.

(2) If the number of papers in any such parcel is equal to the quota, the papers shall be set aside as finally dealt with.

(3) If the number of papers in any such parcel is greater than the quota, the surplus shall be transferred to other candidates in the manner prescribed in the following regulation.

12. (1) If more than one candidate has a surplus the largest surplus shall be dealt with first and the others in order of magnitude, provided that every surplus arising on the first count of votes shall be dealt with before those arising on the second count and so on.

(2) Where two or more surpluses are equal the Returning Officer shall decide according to the terms of regulation *seventeen* which shall first be dealt with.

(3) (a) If the surplus of any candidate to be transferred arises from original votes only, the Returning Officer shall examine all the papers in the parcel belonging to the candidate whose surplus is to be transferred and divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon.

(b) He shall also make a separate sub-parcel of the exhausted papers.

(c) He shall count the papers in each sub-parcel and the total of all the unexhausted papers.

(d) If the total of unexhausted papers is equal to or less than the surplus he shall transfer all the unexhausted papers.

(e) If the total number of unexhausted papers is greater than the surplus, he shall transfer from each sub-parcel of unexhausted papers that number which bears the same proportion to the total of the sub-parcel as the surplus bears to the total of all unexhausted papers.

(f) The number of papers to be transferred from each sub-parcel shall be ascertained by multiplying the total of the sub-parcel by the surplus and dividing the result by the total number of unexhausted papers.

(g) The Returning Officer shall mix the papers in each sub-parcel and transfer the requisite number to each candidate from the top of the sub-parcel.

(4) If the surplus of any candidate to be transferred arises from transferred as well as original votes, the Returning Officer shall re-examine all the papers in the sub-parcel last transferred to the candidate and divide the unexhausted papers into sub-parcels according to the next preferences recorded. He shall thereupon deal with the sub-parcels in the same manner as is provided in the case of the sub-parcels referred to in sub-section (3) (c), (d), (e), (f), and (g) of this regulation.

(5) The papers transferred to each candidate shall be added to the papers already belonging to such candidate in the form of a sub-parcel.

(6) If as the result of a transfer of papers under this regulation the votes obtained by a candidate are equal to or greater than the quota, the transfer then proceeding shall be completed, but no further papers shall be transferred to him from any other candidate.

(7) All papers in a parcel of an elected candidate not transferred under this regulation shall be set aside as finally dealt with.

(8) A transfer of papers under this regulation *\*need not be made*

(i) *\*if the surplus next to be transferred together with any other surplus votes not transferred exceeds the difference between the totals of the votes of the two continuing candidates lowest on the poll ;*

(ii) *if under the terms of these regulations a number of candidates equal to the vacancies to be filled has already been elected.*

13. If after the completion of the transfer of any particular surplus any candidate shall have obtained a number of votes equal to or greater than the quota he shall be declared elected.

14. (1) If after all surpluses other than a surplus referred to in sub-section (8) of regulation *twelve* have been transferred, as hereinbefore directed, less than the number of candidates required has been elected, the Returning Officer shall exclude from the poll the candidate having the fewest votes and shall distribute his

\* Word in italics substituted by Govt. Notice No. 1163 of 1909 (*Gazette*, 8/10/09).

† Words in italics inserted by Govt. Notice No. 1163 of 1909 (*Gazette*, 8/10/09); see also Govt. Notice No. 1176 of 1909 (*Gazette*, 15/10/09, *erratum*).

unexhausted papers among the continuing candidates according to the next preferences recorded thereon. Any exhausted papers shall be set aside as finally dealt with.

(2) If in any case the total number of the votes of the two or more candidates lowest on the poll together with any surplus votes not transferred is less than the votes of the next highest candidate, the Returning Officer may in one operation exclude those candidates from the poll and distribute their votes in accordance with the last preceding sub-section.

(3) If after the completion of any transfer of votes under this regulation any candidate shall have obtained a number of votes equal to or greater than the quota he shall be declared elected.

(4) If such candidate shall have obtained a number of votes equal to the quota the whole of the papers on which such votes are recorded shall be set aside as finally dealt with.

(5) If such candidate shall have obtained a number of votes greater than the quota his surplus shall thereupon be distributed in the manner provided in regulation *twelve*.

15. The process directed by the last preceding regulation shall be repeated on the successive exclusions one after another of the candidates with the lowest number of votes until the last vacancy is filled either by the election of a candidate with the quota or under the next succeeding regulation.

16. (1) When the number of continuing candidates is reduced to the number of vacancies remaining unfilled the continuing candidates shall be declared elected.

(2) When only one vacancy remains unfilled and the votes of some one continuing candidate exceed the total of all the votes of the other continuing candidates together with any surplus not transferred, that candidate shall be declared elected.

(3) When more than one vacancy remains unfilled and the votes of the candidate, who, if all the vacancies were filled by the successive elections of the continuing candidates with the largest number of votes, would be the last to be elected, exceed the total of all the votes of all the continuing candidates with fewer votes than himself, together with any surplus votes not transferred, that candidate and all the other continuing candidates who have not less votes than himself shall be declared elected.

(4) When only one vacancy remains unfilled and there are only two continuing candidates and those two candidates have each the same number of votes and no surplus votes remain capable of transfer, one candidate shall be declared excluded under the next succeeding regulation, and the other declared elected.

17. If when there is more than one surplus to distribute, two or more surpluses are equal or if at any time it becomes necessary to exclude a candidate and two or more candidates have the same number of votes and are lowest on the poll, regard shall be had to the number of votes counted to each candidate under regulation *eight*, and the candidate for whom least first preferences are recorded shall have his surplus first dealt with or shall be excluded as the case may be. If the number of their first preferences are equal the Returning Officer shall decide by lot which candidate shall have his surplus first dealt with or shall be excluded as the case may be.

18. (1) Any candidate or his agent may at any time during the counting of the votes, either before the commencement or after the completion of the transfer of the votes (whether original or transferred votes) of any candidate, request the returning officer to recount the papers then comprised in the parcels of all or any candidates (not being papers set aside as finally dealt with) and the returning officer shall forthwith recount the same accordingly. The returning officer may also at his discretion recount votes either once or more often in any case in which he is not satisfied as to the accuracy of any previous count. Provided that nothing herein shall make it obligatory on the returning officer to recount the same votes more than once.

(2) If upon an election petition—

(i) any ballot papers counted by the returning officer are rejected as invalid,

or

(ii) any ballot papers rejected by the returning officer are declared valid, the Court may direct the whole or any part of the ballot papers to be recounted and the result of the election ascertained in accordance with these regulations.

† Words in italics substituted by Govt. Notice No. 1163 of 1909 (*Gazette*, 8/10/09).



(3) Except as in this regulation expressly provided no recount shall be had whether on an election petition or otherwise.

19. (1) If any question shall arise in relation to any transfer the decision of the returning officer, whether expressed or implied by his acts, shall be final, unless an objection is made by any candidate or his agent before the declaration of the poll, and in that event the decision of the returning officer may be reversed upon an election petition.

(2) If any decision of the returning officer is so reversed, the transfer in question and all operations subsequent thereto shall be void and the Court shall direct what transfer is to be made in place thereof, and shall cause the subsequent operations to be carried out and the result of the election to be ascertained in accordance with these regulations.

*THIRD SCHEDULE.*

FORM OF FRONT OF BALLOT PAPER.

Counter-foil No.

Order of Preference.	Names of Candidates.
	BROWN. (John Brown, of.....Street, *....., Merchant.)
	COHEN. (Abraham Cohen, of.....Street, *....., Storekeeper.)
	JAMES. (Alfred James, of.....Street, *....., Accountant.)
	JONES. (Henry Jones, of.....Street, *....., Builder.)
	LEVY. (Isaac Levy, of.....Street, *....., Bootmaker.)
	MAYNARD. (Paul Maynard, of.....Street, *....., Carpenter.)
	OOSTHUIZEN. (Johannes Oosthuizen, of.....Street, *....., Attorney.)
	PAIN. (Herbert Pain, of.....Street, *....., Blacksmith.)
	ROBINSON. (George Robinson, of.....Street, *....., Grocer.)
	SMIT. (Jacobus Smit, of.....Street, *....., Broker.)
	VAN DER SPUY. (Petrus van der Spuy, of.....Street, *....., Architect.)

Note: The counter-foil must show the number corresponding to that on the back of the ballot paper.

\* Here insert the name of town.

*Instructions to Voters.*

- A. Each elector has one vote and one vote only.
  - B. The elector votes—
    - (a) by placing the single numeral 1 opposite the name of the candidate he likes best.
    - He is also invited to place—
    - (b) the numeral 2 opposite the name of his second choice :
    - (c) the numeral 3 opposite the name of his third choice, and so on, numbering as many candidates as he pleases in the order of his preference.
  - N.B.—The vote will be spoilt if the single numeral 1 is placed opposite the name of more than one candidate.
    - No..... Form of back of Ballot Paper.
    - Election for Town Council of †.....
- NOTE.—The number on the back of the ballot paper is to correspond with that in the counterfoil

† Here insert the name of municipality

Act 24 of 1909.]

[Promulgated 16th July, 1909.]

## AN ACT

## FOR THE BETTER PROTECTION OF THE LIVES OF INFANT CHILDREN.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal, as follows:—

1. In this Act unless inconsistent with the context  
 "infant" shall mean a child under the age of seven years;  
 "magistrate" shall include a resident magistrate and an assistant resident magistrate.  
 "policeman" shall mean a European constable, non-commissioned officer, or commissioned officer of the police force established under the Transvaal Police Act 1908 or any amendment thereof.

Interpretation of terms.

2. (1) Any person retaining or receiving an infant for the purpose of nursing or maintaining such infant apart from his or her parent or parents for a period longer than three days shall, within forty-eight hours thereafter, if the place where such infant is retained or received is in a municipal area and within one week thereafter if such place is not in a municipal area, give notice in writing to the magistrate of the district or the field cornet of the ward in which such place is situate of such fact.

Notice to be given by any person retaining or receiving any infant for maintenance.

(2) Any person who, at the date of the taking effect of this Act, has in his care, custody, or control any infant for the purpose of nursing or maintaining such infant apart from his or her parents for a period longer than three days shall, not later than one month after the taking effect of this Act, give notice thereof in accordance with the provisions of the preceding subsection.

3. Such notice shall state truly the christian name, if bearing any, age and sex of such infant, the name of the person receiving, retaining, or having the care, custody, or control of the infant, and the dwelling within which such infant is being kept and the reward, if any, being received by any person in respect of its maintenance.

Particulars of notice.

The notice shall also state the name and address of the parents of such infant or, if the infant is illegitimate, of the mother thereof.

4. If any such infant be removed from the care of the person mentioned in the notice aforesaid, or if such person change his residence, he shall forthwith give to the magistrate of the district

Notice of removal of infant to be given.

or the field cornet of the ward notice of the removal or change of residence, as the case may be, showing his new place of residence or, if the infant has been removed from his care, the name and address of the person to whose care the infant has been transferred.

Notice to be given if infant dies.

5. Any person who shall have the care or custody of an infant for the purpose of nursing or maintaining such infant apart from his or her parent or parents for a period longer than three days shall, if such infant die, give immediate notice thereof to the magistrate of the district or field cornet of the ward, and such notice shall state specially whether any other infant to whom this Act applies has, at any time previous to such death notice, died under the care or custody of such person.

Duty of field cornet receiving notice.

6. Any field cornet receiving any notice under this Act shall immediately transmit it to the magistrate of his district.

Failure to give notice an offence.

7. If any person who is required to give any notice under this Act omits to give such notice as required by this Act or knowingly or wilfully makes, or causes or procures any other person to make, any false statement in any such notice, he shall be guilty of an offence against this Act.

Duties of magistrate in certain cases.

8. In the case of any infant in respect of whom the notice required under section *two* or section *four* of this Act is omitted to be given, the magistrate of the district in which such infant is retained or received, or to which such infant has been removed, shall have the same duties and powers as are set forth in the next succeeding section.

Duty of magistrate on receiving notices.

9. The magistrate receiving any notice given under section *two* or *four* of this Act shall cause inquiry to be made into the circumstances of the case and shall have power, should he be satisfied that it is not in the best interests of the infant to remain with the person giving such notice, to order the removal of such infant to the care, custody, and control of some other person or institution willing to receive and maintain such infant, as to such magistrate may seem meet, unless the parent or parents of such infant shall within three days make suitable provision for the custody of such infant; provided that the inquiry so to be made shall not extend to or include any question as to the parentage of such infant.

Power of field cornet to visit and inspect infant.

10. Any field cornet may from time to time visit and inspect any infant to whom this Act applies who is retained or received at any place, not being in a municipal area situate in his ward, and the premises in which such infant is retained or received, and report the result of such inspection to the magistrate of the district.

Power to appoint inspectors and visitors.

11. The magistrate of the district shall have the power and authority, by writing under his hand, to appoint voluntary inspectors and visitors to assist him in carrying out the provisions of this Act, and may arrange for any infant to be visited or inspected by such inspectors or visitors.

Powers of inspectors and visitors.

12. Any inspector or visitor duly appointed and authorized as aforesaid, and any policeman, may from time to time visit and

inspect any infant to whom this Act applies and the premises in which such infant is retained or received, in order to secure the proper maintenance and treatment of such infant.

13. A magistrate may at any time order the medical examination of any infant within his district to whom this Act applies and, upon such order being made, the district surgeon shall have authority to make such examination.

Medical examination of infant.

14. If any person having the care, custody, or control of an infant to whom this Act applies refuses to allow or obstructs any inspection or examination of such infant or any inspection of the premises in which such infant is retained or received authorized under this Act, such person shall be deemed to be guilty of an offence against this Act.

Obstruction of inspection or examination an offence.

15. If any person having the care, custody, or control of an infant to whom this Act applies ill-treats or neglects such infant or causes or procures such infant to be ill-treated or neglected in a manner likely to cause such infant unnecessary suffering or injury to his health, such person shall be deemed to be guilty of an offence against this Act, and such infant may, by order of the magistrate of the district, be removed to the care, custody or control of some other person or institution willing to receive and maintain such infant, as to such magistrate may seem meet, unless the parents of such infant shall within three days make suitable provision to the satisfaction of such magistrate for the custody thereof.

Ill-treating or neglecting infant an offence.

16. It shall be an offence against this Act on the part of any person to effect any insurance on the life of any infant to whom this Act applies, and any policy of insurance made after the passing of this Act in contravention of the provisions of this section shall be void and of no effect.

No insurance may be effected on life of infant.

17. It shall be the duty of the magistrate of the district to fix the number of infants who may be received or maintained in any dwelling under the provisions of this Act, and any person receiving or maintaining any infant in excess of the number so fixed shall be deemed to be guilty of an offence against this Act, and such infant may be removed as provided in section *fifteen* of this Act.

Magistrate to fix number of infants who may be received in any dwelling.

18. An order of removal made under this Act may be enforced by any inspector or visitor appointed under section *eleven* or by any policeman. Any person refusing to comply with any such order of removal upon its being produced and read over to him, or obstructing or causing or procuring to be obstructed any such inspector or visitor or any policeman in the execution of such order, shall be guilty of an offence against this Act.

Enforcement of order for removal of infant.

19. The publisher of any newspaper published in this Colony shall on the request of the magistrate of the district of publication disclose to such magistrate the name and address of any person in this Colony who has advertised in such newspaper that he is willing to adopt or to undertake the care, custody, or control of any infant. Any failure to comply with this section shall constitute an offence against this Act.

Name and address of advertiser to be disclosed by publisher of newspaper.

Penalty for  
offence  
against Act.

20. Any person who commits an offence against this Act shall be liable on conviction to a fine not exceeding one hundred pounds, or, in default of payment, to imprisonment, with or without hard labour, for a period not exceeding six months, or to both such fine and imprisonment.

Prosecutions  
under other  
laws not  
limited.

21. Nothing in this Act contained shall be deemed to affect in any way, the liability to penalties of any person having the care, custody, or control of an infant to whom this Act applies, by reason of any offence committed in respect of such infant which is not specially provided for under this Act.

Right of  
parents to  
custody of  
infant.

22. Nothing in sections *nine* and *fifteen* of this Act shall deprive the parent or parents of any infant removed by order of a magistrate of the right of hereafter claiming the custody of such infant or making other suitable provision therefor.

Presumption  
of age of  
child.

23. When a person is charged with an offence against this Act in respect of a child who is alleged in the charge or indictment to be an infant under the age of seven years and the child appears to the Court to be under that age such child shall, for the purposes of this Act, be deemed to be under that age unless the contrary is proved.

Exemption.

24. (1) The provisions of this Act shall not extend to any relative within the fourth degree or legally constituted guardian of an infant who undertakes the nursing and maintenance of such infant or to hospitals, convalescent homes, or institutions established for the protection and care of infants and conducted in good faith for religious or charitable purposes, or to near friends acting without reward.

(2) Any person having undertaken without reward the care, custody or control of any infant to whom this Act applies, who by reason of his bona fides character and circumstances can satisfy the magistrate of the district that there is no reasonable prospect of such infant while in his custody being neglected or ill-treated, shall be entitled to receive a certificate from the magistrate exempting such infant while in his custody and the premises in which such infant is retained, from the provisions of section *twelve* of this Act. The magistrate may in his discretion cancel any such certificate by giving notice of such cancellation to the person to whom such certificate has been granted.

Title and date  
of taking  
effect.

25. This Act may be cited as the Infant Life Protection Act, 1909 and shall take effect on the first day of January 1910.

Act No. 25 of 1909.]

[Promulgated 16th July, 1909.]

## AN ACT

TO CONSOLIDATE AND AMEND THE LAW REGULATING THE DEEDS OFFICE AND MINING TITLES REGISTRATION OFFICE AND RELATING TO THE REGISTRATION OF DEEDS AND MINING TITLES.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

## PRELIMINARY.

1. The laws mentioned in the First Schedule to this Act shall be and are hereby repealed to the extent set forth in the second column of that Schedule. Repeal of laws.
2. In this Act, unless inconsistent with the context, Interpretation of terms.
- “diagram” shall mean a diagram prepared by a person lawfully admitted to practise as a land surveyor, and approved by the Surveyor-General without publication; and “confirmed diagram” shall mean a diagram confirmed by the Surveyor-General after notice of confirmation has been published as prescribed by law;
- “district” shall mean a magisterial district of this Colony;
- “Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council thereof;
- “local authority” shall include any body which by law is established and has the general control, care, and management of streets, roads, squares, and open public places within any defined area in this Colony;
- “Master” shall mean the Master of the Supreme Court or any person lawfully acting in that capacity;
- “mining district” shall have the meaning assigned to that term in and for the purposes of the Precious and Base Metals Act 1908 or any amendment thereof, and shall include any sub-division of a mining district;
- “mining title” shall mean
- (a) all such rights as are included in the definition of “mining title” in the Precious and Base Metals Act 1908 or any amendment thereof;
- (b) discoverers' certificates and alluvial claim licences held under the Precious Stones Ordinance 1903 or any



- amendment thereof and discoverers' certificates held under the Precious and Base Metals Act 1908 or any amendment thereof ;
- (c) any such interest in a mine as is mentioned in Chapter V of the Precious Stones Ordinance 1903 and is held by the owner as therein described ;
- “notary public” shall mean a person admitted to practise as such by the Supreme Court of this Colony and entitled for the time being to practise as such ;
- “owner” shall mean, in relation to land, the person registered in the Deeds Office as the owner of the land ;
- “prospecting contract” shall mean a notarial deed by which the owner of land or the registered holder of mineral rights thereon grants the right to prospect and seek for any metal, mineral, mineral oil, or precious stone, together with the right to purchase either the freehold of or any right to metals, minerals, mineral oils, or precious stones on that land or the right to lease any such right ;
- “regulation” shall mean a regulation made under Chapter III of this Act ;
- “stand” shall mean, when used in relation to a township, a portion of land in that township, held under freehold title ;
- “stand title” shall mean the licence for any stand mentioned in Part II, Chapter X, of the Precious and Base Metals Act 1908 or any amendment thereof ;
- “street” “road” “thoroughfare” “sanitary passage” “square” or “open public place” shall mean and include the streets, roads, thoroughfares, sanitary passages, squares, and open public places shown on the general plans of townships filed in the Deeds Office and in the office of the Surveyor-General, and all land (other than erven, stands, or lots shown thereon) the control whereof is vested in a local authority or to which the registered owners of erven, stands, or lots in the township have a common right ;
- “surface rights” shall mean all such rights as are described in Part II, Chapter IX, of the Precious and Base Metals Act 1908, or any amendment thereof, whether the same depend upon a grant made under such Chapter or under Law No. 15 of 1898 or under a prior law, and shall include sites selected under section *sixty-nine* of the Precious Stones Ordinance 1903 or any amendment of that section ;
- “township” shall mean a township approved under the Townships Act 1907 or any amendment thereof, or proclaimed under that Act or any amendment thereof, or otherwise established by lawful authority, or any area of land registered in the Deeds Office as a township at the commencement of this Act ;

“the Court” shall mean, in relation to the Deeds Office, the Supreme Court or any judge thereof sitting in Pretoria, and, in relation to the Mining Titles Office, shall include also the Witwatersrand High Court.

3. (1) There shall be at Pretoria an office for the registration of deeds, to be called the “Deeds Office”.

Establishment of Deeds Office and Mining Titles Registration Office.

(2) There shall be at Johannesburg an office (to be called the Mining Titles Office) for the registration of all mining titles and stand titles and of those other rights and documents the registration of which is in Chapter II of this Act provided for.

(3) Each such office shall be deemed a continuation of the “Deeds Office” or Mining Titles Registration Office (as the case may be) existing at the commencement of this Act.

(4) In each such office shall be carried out to completion all such matters as immediately prior to the commencement of this Act were uncompleted, but such uncompleted matters shall be completed as if this Act had not passed.

4. (1) The Governor shall appoint an officer to be styled the Registrar of Deeds to be in charge of the Deeds Office and shall further appoint an officer to be styled the Registrar of Mining Titles to be in charge of the Mining Titles Office.

Appointments.

(2) The Governor may appoint officers to be styled respectively the Assistant Registrar of Deeds and the Assistant Registrar of Mining Titles, each of whom shall, subject to any regulations in force for the administration of his office, have authority to do any act or thing which may be lawfully done by the Registrar of Deeds or the Registrar of Mining Titles, as the case may be.

(3) Every person holding at the commencement of this Act any such appointment as is described in this section shall be deemed to have been appointed under this section.

CHAPTER I.

DEEDS OFFICE.

5. The Registrar of Deeds shall be in charge of the Deeds Office and his duties shall, subject to the provisions of this Act and the regulations, be

Duties of the Registrar of Deeds.

(a) to take charge of and preserve all records which were records of the Deeds Office immediately prior to the commencement of this Act;

(b) to register grants or original titles to immovable property issued by lawful authority;

(c) to certify, sign, and register deeds of transfer of immovable property and of any other property the transfer of which may be required by any law to be made before the Registrar of Deeds;

(d) to certify, sign, and register mortgage bonds, specially hypothecating any such property as is mentioned in paragraphs (b) and (c) and generally the person and property of the mortgagor;

- (e) to register antenuptial contracts, *kinderbewijzen*, notarial bonds, and other notarial deeds having reference to persons or property in this Colony ;
- (f) to register cessions of registered bonds ;
- (g) to cancel or partially cancel any registered bond or deed or to release from the operation of any such bond the whole or any part of the property or any thing specially hypothecated or bound by such bond ;
- (h) to register all such grants, concessions, mynpachts, and documents as under any law or according to the practice and usage of the Colony are proper for registration in the Deeds Office ;
- (i) to register against any property registered in the Deeds Office any lease, real or personal servitude, or encumbrance, or personal right contained in a deed of transfer or other duly registered deed, or authorized by an order of the Court ;
- (j) to register against any bond registered in the Deeds Office any notarial deed or deeds whereby the conditions of that bond or the rate of interest payable by reason thereof are varied ;
- (k) in the registration of any deed to make such endorsements on a registered title, or a deed or document filed of record in the Deeds Office, as may be necessary to give effect to that registration ;
- (l) to keep a register of all interdicts and orders of court served upon him and affecting rights registered in the Deeds Office, and of all notices relating to estates furnished to him by the Master ;
- (m) to keep such land, debt, and other registers as are necessary for duly performing any of the provisions of this Act, for carrying on an efficient system of registration, calculated to afford security of title, and for providing easy reference thereto ;
- (n) generally to exercise all the powers and discharge all the duties as are by the law of this Colony or the general law of South Africa exercised or discharged by the Registrar of Deeds, and to carry out the objects and purposes of so much of this Act and the regulations as apply to the Deeds Office.

Registrar of  
Deeds to  
notify passing  
of transfers to  
resident  
magistrate.

6. Whenever a deed of grant or transfer, or any mortgage bond or any other deed whatever having reference to or affecting the ownership of land in any district, has been registered by the Registrar of Deeds, or the cancellation or cession of any such deed has been effected, he shall transmit written notice of the registration to the resident magistrate of that district, who shall thereupon make the necessary entry in the land register of the district. If any portion of a district has been detached and placed in charge of an assistant resident magistrate, the resident magistrate shall communicate to that assistant resident magistrate so much of that notice as appertains to the detached portion of the district. The assistant resident magistrate shall make the necessary entry in the land register of that detached portion.

## AMALGAMATION OF TITLE.

7. (1) The owner of two or more pieces of land contiguous to each other may obtain from the Registrar of Deeds a document, called a certificate of amalgamated title, in respect of the combined area of that land.

Amalgamated title: how obtained.

(2) A certificate of amalgamated title may be obtained in the following manner:—

The owner shall make written application therefor to the Registrar of Deeds, accompanied by

(a) the several deeds of grant or deeds of transfer or other title-deeds under which he holds and all documents appertaining to those deeds; and

(b) a diagram in duplicate showing the aggregate extent of land which the applicant holds under separate titles and which he desires to have amalgamated and registered under one title; and

(c) where a diagram of any component part of that land can be produced, a diagram of that part;

Provided that if any such deed has been lost and no certified copy issued to take the place thereof has been produced, the Registrar of Deeds may, if satisfied that all necessary steps have been taken to obtain such certified copy and that there is no valid objection to the issue of such a copy, dispense with the production by the applicant of a certified copy of the deed.

8. A certificate of amalgamated title shall not be issued in respect of land situate in more than one district.

Restrictions against issue of certificate of amalgamated title.

9. Whenever the Registrar of Deeds issues a certificate of amalgamated title, he shall cause to be made on the deeds submitted, and on the duplicate originals thereof filed in the Deeds Office, all necessary endorsements, and in his registers, all necessary entries.

Endorsements and entries to be made by the Registrar of Deeds when certificate of amalgamated title is issued.

Those endorsements and entries shall show the amalgamation of the titles.

The Registrar of Deeds shall retain in his possession the deeds so submitted;

Provided that, if one of the pieces of land to be amalgamated is held under the same title-deed with another piece of land, the Registrar of Deeds shall suitably endorse that title-deed so as to show that the first-named piece of land is no longer held under that title-deed, and shall deliver back that title-deed to the owner.

10. (1) A certificate of amalgamated title may be issued notwithstanding that any or all of the pieces of land are hypothecated under a mortgage bond or mortgage bonds;

Duties of Registrar of Deeds where land to be amalgamated is hypothecated under mortgage bonds.

Provided that

(a) the bond or bonds shall be produced to the Registrar of Deeds; and

(b) the written consent of the mortgagor, and of the legal holder or holders of such bond or bonds, to the issue of the

certificate applied for shall be produced to the Registrar of Deeds and such consent shall state that it is given under this section ; and

(c) the Registrar of Deeds endorses upon such bond or bonds that the area of land to be held under the amalgamated title or the portion thereof previously hypothecated (as the case may be) is under this section substituted for the area or areas previously hypothecated, and that such area or portion (as the case may be) is hypothecated as a first or subsequent mortgage (according to the circumstances) but an endorsement shall not be made in respect of a portion hypothecated unless a diagram of that portion be produced or that portion be indicated on the diagram attached to the certificate of amalgamated title ; and

(d) the Registrar of Deeds shall make an entry of the substitution in his debt register ; and

(e) the Registrar of Deeds shall endorse on the certificate of amalgamated title that the area held thereunder, or the portion thereof previously hypothecated, is hypothecated by such bond or bonds and shall further endorse where necessary, the order of preference of such bonds.

(2) From and after the completion of the entries and endorsements aforesaid the land held under the amalgamated title or the portions thereof previously hypothecated shall be deemed to be as fully and effectually hypothecated as if it were still held under the title-deeds mentioned in section *seven*.

11. (1) A certificate of amalgamated title shall be, as nearly as possible, in the form set forth in the Second Schedule to this Act.

(2) A certificate of amalgamated title and the diagram thereto shall respectively take the place of the title-deeds under which the owner previously held the land mentioned therein and of the diagrams appertaining to those deeds ; but no certificate of amalgamated title shall be deemed to confer upon the owner any greater or other right in respect of that land than he held or possessed under the said title-deeds and diagrams appertaining thereto.

(3) A certificate of amalgamated title shall state that the holder is the registered owner of the land described in the certificate and the description of the land shall be according to a diagram or confirmed diagram annexed to the certificate. That diagram shall include and indicate the several pieces of land to be held under the certificate.

(4) If a title to land held under quitrent (*leenings*) tenure and a title held under freehold (*eigendoms*) tenure are amalgamated the amalgamated title shall be under quitrent (*leenings*) or freehold (*eigendoms*) tenure according as the greater component part was quitrent (*leenings*) or freehold (*eigendoms*). If there be a further amalgamation, the amalgamated area shall be quitrent (*leenings*) or freehold (*eigendoms*) according as the greater extent of the original component parts of the area was held under quitrent (*leenings*) or freehold (*eigendoms*) tenure.

Form, effect,  
and contents  
of certificate  
of amalga-  
mated title.

## TOWNSHIPS.

12. As soon as any township shall have been approved under the Townships Act 1907 or any amendment thereof the owner of the land upon which the township is situate shall, in addition to the duties imposed upon him by the said Act or any amendment thereof, lodge with the Registrar of Deeds two copies of an approved general plan of the township showing the numbers assigned to the erven or lots therein and the Registrar of Deeds shall open a register of the township with a separate folio for each erf or lot and, as soon as the provisions of this section and of the Townships Act 1907 or any amendment thereof have been complied with by the owner, the erven or lots in that township shall for all purposes be deemed duly registered.

Duties of Registrar of Deeds on approval of townships.

13. Whenever it is sought to transfer or lease an erf, stand, or lot in a township, or a lot shown on an approved general plan duly registered which specifies the area thereof, it shall not be necessary to annex to the deed of transfer or lease a diagram of any such erf, stand, or lot, but as soon as it is first sought to transfer or lease a portion of any such erf, stand, or lot there shall, in addition to a diagram of that portion annexed to the transfer or lease of that portion, be filed in the Deeds Office a diagram of the whole erf, stand, or lot. The last-named diagram may be a copy, certified to by the Surveyor-General, of a portion of the general plan of the township.

Transfer or leases of lots in townships allowed without diagram if approved general plan of township registered.

14. (1) Any general plan filed in the Deeds Office and Surveyor-General's office of a township, or of land divided into lots exceeding fifteen in number, may be altered or cancelled

When alteration or cancellation of general plan of townships or divided land permitted.

(a) for the purpose of rectifying errors in survey; or

(b) with the consent of the local authority having jurisdiction in the township or, as the case may be, in the area wherein the land so divided is situate, or, if there be no such local authority, with the consent of the Governor, who may be advised, as to the giving or withholding of such consent, by the Townships Board;

provided that every alteration, which represents a new division of any portion of the area represented on the general plan, shall be approved by the Townships Board.

(2) Any such general plan may be totally or partially cancelled if the Registrar of Deeds and the Surveyor-General be satisfied that the owner of the land on which is situate the township or, as the case may be, of the land divided as aforesaid, has abandoned his intention to sell or lease all the erven, stands, or lots shown on that plan or on the part thereof sought to be cancelled, but no partial cancellation shall take place under this sub-section except upon an order of the Court unless there be produced to the Registrar of Deeds and the Surveyor-General the written consent of the owner of every erf, stand, or lot which has been transferred or the lease whereof has been registered and of the legal holder of a mortgage bond on every such erf, stand, or lot.

(3) When any cancellation or alteration of a general plan has been made under this section, the Registrar of Deeds shall amend his registers accordingly.

Amalgamated title of blocks of divided land and division of blocks held under such title.

15. (1) The owner of two or more erven, stands, or lots contiguous to each other and forming a block which is not intersected by any street, road, or sanitary passage shown on the general plan may obtain a certificate of amalgamated title in respect of those erven, stands, or lots, the provisions of section seven to eleven inclusive being applied for the purpose *mutatis mutandis* and so far as they are applicable.

(2) The holder of any such certificate of amalgamated title may divide into lots all or any portion of the land comprised therein, but the division shall be deemed for all purposes a new division of land for the purposes of sub-section (1) of the last preceding section.

Registration in townships register of divisions of land included in a township.

16. Whenever any area has become or been included within a township all existing divisions of that area, except streets, roads, thoroughfares, sanitary passages or open public places, shall be entered in the Deeds Office in the township register, each upon a separate folio; but if any such existing division be at any time sub-divided and a general plan of the sub-division be filed in the Deeds Office, every sub-division, except streets, roads, thoroughfares, sanitary passages, and open public places, shown on that general plan shall be entered in the Deeds Office in the township register each upon a separate folio.

Transfer of township or portion thereof.

17. It shall be lawful, after the commencement of this Act, for the owner of any township to transfer or mortgage by one deed the whole of the land or the remainder thereof comprised in that township or an undivided share in or a divided portion of that land or the remainder thereof:

Provided that

(a) the transfer or mortgage shall be in accordance with a diagram, to be annexed thereto if necessary, from which shall be excluded all erven, stands, or lots in the township or portion thereof affected which may have been already transferred;

(b) only such divided portion may be transferred or mortgaged as includes, in addition to erven, stands or lots shown on the general plan, streets, squares, open spaces, or public places, or portions thereof, appearing on that general plan and the boundaries of which portion coincide with one or more of the division lines shown upon the general plan and do not intersect any of the erven, stands, or lots shown thereon;

(c) the deed of transfer or mortgage shall state that the land described therein has been laid out as a township or is a portion of or share in land so laid out, and that such land remains subject to the provisions of the laws and regulations in force relating to the registration of townships or erven, stands, or lots therein, and also that such land is subject to the rights of the owners of erven, stands, or lots in the particular township affected with respect to streets, squares, public places or open spaces therein to which those owners may have individual rights or rights in common.

## TRANSFER OF LAND.

18. (1) From and after the commencement of this Act land may be conveyed in undivided shares to two or more persons by one and the same deed of grant or deed of transfer.

Conveyance of land in undivided shares to two or more persons by one and the same deed.

(2) If any person who is the joint owner under one deed of grant or deed of transfer desire to transfer a fraction of his undivided share, or to hypothecate, or lease, or encumber by servitude or otherwise, the whole or any fraction thereof, he shall obtain from the Registrar of Deeds a certificate of title in the form (as nearly as may be) set forth in the Third Schedule to this Act.

Every such certificate of title shall be issued, upon written application, by the Registrar of Deeds, and shall serve as the title of the said joint owner to the share of the land mentioned in the certificate.

(3) If the land be subject to a mortgage bond, lease, or other encumbrance, the certificate shall not be issued except upon production of that mortgage bond, lease, or the deed of encumbrance.

(4) When issuing the certificate the Registrar of Deeds shall endorse

(a) upon the mortgage bond, lease, or deed of encumbrance that a certificate of title under this section has been substituted, so far as concerns the undivided share of the applicant in the land, for the deed of grant or deed of transfer whereby he has hitherto held that share; and

(b) upon that deed of grant or deed of transfer that a certificate of title has been issued under this section to the applicant;

and thereupon, so far as concerns the said undivided share, the deed of grant or deed of transfer shall be deemed to be superseded, and the land held under the certificate shall be deemed to be as fully and effectually hypothecated, leased, or encumbered (as the case may be) as if it were still held under the deed of grant or deed of transfer described in sub-section (1).

19. (1) From and after the commencement of this Act farms, erven, stands, and freehold lots and portions of and shares in farms, erven, stands, and freehold lots, may be transferred from one owner, or from more than one owner if the properties be held in undivided shares, by one and the same deed of transfer to one person, or in undivided shares to more than one person, provided that all the land to be transferred be registered in the office in which the deed of transfer is lodged; provided further that, if stands registered in the office of the Rand Townships Registrar are included in such a deed, that deed shall be in triplicate, but such a triplicate shall not require to be stamped, nor shall any fees of office be required to be paid in respect of the registration of the triplicate.

Transfer of more than one farm, etc., by one and the same deed of transfer, subject to certain restrictions.

(2) If it be sought thereafter to transfer, hypothecate, lease, or encumber by servitude or otherwise any land transferred in accordance with sub-section (1) of this section, the provisions of sub-sections (2) (3) and (4) of the last preceding section shall *mutatis mutandis* apply.



(3) Where two or more portions of a farm, erf, stand, or lot are to be transferred by one and the same deed of transfer, those portions may, if contiguous, be shown as one figure on the diagram (if any) to be annexed to the transfer.

#### PARTITION OF LAND.

Issue of certificate of title in respect of share of land partitioned.

20. (1) When two or more owners of land in undivided shares desire to partition that land, the Registrar of Deeds may, if there be lodged with him a deed of partition executed by those owners and defining the portion to be held by each such owner in lieu of his undivided share and, where necessary, the rights and servitudes to which each portion is to be entitled or subject, issue a partition title (as nearly as may be in the form set forth in the Fourth Schedule to this Act), in accordance with diagram, for each defined portion.

(2) Every such partition title shall be deemed to be a conveyance of the land in respect of which it is issued.

Issue of certificate of title in respect of undivided shares of land.

21. (1) If any one or more owners of undivided shares in land desire to partition that land and take out title or titles to the portion or portions of that land equivalent to the share or shares held by him or them, the Registrar of Deeds may, upon the lodging with him of a deed of partition executed by all the joint owners of that land, and embodying where necessary the rights and servitudes to which each portion is to be entitled or subject, issue

(a) to each owner desiring such title, a partition title in accordance with diagram and as nearly as may be in the form set forth in the Fourth Schedule to this Act; and simultaneously

(b) to the other owners, a certificate or certificates of title (as nearly as may be in the form set forth in the Fifth Schedule to this Act) to undivided shares of the remaining extent of that land.

(2) The partition title or certificate mentioned in sub-section (1) shall be deemed to be the title to the land in respect of which it is issued and there shall be embodied in it all servitudes to which the said portions or shares are subject and all rights to which those portions or shares are entitled.

Effect of certificates under the last two sections.

22. Every partition title or certificate issued under the last two preceding sections shall supersede the deed of title previously held in respect of the undivided share or shares by the persons in whose favour the partition title or certificate is issued.

#### *Deeds of Hypothecation.*

Conditions precedent to transfers of hypothecated property.

23. No transfer of land or cession of rights to immovable property or of any lease registrable in the Deeds Office, specially hypothecated under a mortgage band, shall be passed until that mortgage bond has been duly cancelled or the land, rights, or lease released from the operation of the bond by the consent of the registered holder thereof; but this section shall not apply if the land is transferred or the rights or lease are ceded

- (i) in execution of the judgment of any competent court by the officer appointed by law or by that court;
- (ii) by the trustee of an insolvent estate or the liquidator of an insolvent company to which the land, rights, or lease belong;
- (iii) under the provisions of section *fifty* or *fifty-three* of this Act;

provided that, whenever there is sought transfer of land or cession of rights to immovable property or of any lease registrable in the Deeds Office and that land, property, or lease is subject to a mortgage bond and simultaneously with that transfer or cession

(a) the bond is cancelled and another bond is passed for the same amount or a lesser amount; or

(b) the land, property or lease is released from the operation of the bond and another bond is passed for the amount by which a reduction has been effected in the amount of the first-named bond or for a lesser amount,

and in each case the new bond is passed by the transferee, cessionary, or lessee in favour of the same person and upon the same conditions as the first-named bond, and upon the security of the said land, property, or lease, then every such new bond shall, notwithstanding anything contained in the law for the time being in force relating to stamp duties, be exempt from stamp duty, but there shall be chargeable any fees prescribed by regulation.

#### *Certificates in lieu of Lost Titles.*

24. (1) If a copy be required of any title-deed which has been lost or destroyed, the duplicate original whereof is not filed in the Deeds Office, the Registrar of Deeds may, subject to the provisions of this section, issue to the owner of that lost title-deed a certificate of registered title as nearly as may be in the form set forth in the Sixth Schedule to this Act.

Issue of certificate of registered title in lieu of lost title-deed of which no duplicate is filed in the Deeds Office.

(2) That certificate of registered title shall take the place of the lost or destroyed title deed, and shall be subject to all conditions, servitudes, or other encumbrances which according to the records of the Deeds Office were embodied in or endorsed upon the lost or destroyed title-deed.

(3) No such certificate shall be issued for a defined portion or share in a defined portion of any property except in accordance with the diagram of that portion prepared at the expense of the applicant.

(4) No such certificate shall be issued until notice of intention to issue the same has been published by the Registrar of Deeds in four consecutive ordinary issues of the *Gazette* and until that notice has been served by the applicant on the owner or owners of every adjoining farm, erf, stand, or lot (as the case may be), and unless a draft certificate with the diagram has been open for inspection at the Deeds Office for a period of two months after the date of the first publication of the said notice. During that period every person interested shall have an opportunity of objecting to the issue of the certificate.

(5) If any owner of an adjoining farm, erf, stand, or lot cannot be found, the said notice may be served upon the occupier of that farm, erf, stand or lot, or, if there be no such occupier, the notice may be affixed to the door of the principal dwelling-house or some other conspicuous place on that farm, erf, stand, or lot.

(6) If any objection be taken to the issue of the certificate, the objector shall, in the absence of any arrangement between the parties, apply to the Court, within one month after the last day upon which an objection may be lodged, for an order prohibiting the Registrar of Deeds from issuing the certificate, and the Court may make such order upon the application as it may think fit.

### PROSPECTING CONTRACTS.

Register of  
prospecting  
contracts.

25. The Registrar of Deeds shall keep in the Deeds Office a register to be called the register of prospecting contracts in which he shall, subject to the provisions of this Act and the regulations, register all prospecting contracts which, being executed after the taking effect of Ordinance No. 11 of 1904, are tendered to him for registration.

Mode of  
registering  
prospecting  
contracts.

26. (1) In registering a prospecting contract the Registrar of Deeds shall endorse a note of the contract upon the deed whereby the right to the minerals affected is held.

(2) If rights granted under a prospecting contract to the holder thereof are for a defined period with a right of renewal for any further period, registration of that contract shall be effective for that defined period only; but if the registered holder of the contract tender the same at the Deeds Office together with such affidavit as in subsection (3) is described, the Registrar of Deeds shall note upon the contract and in the register of prospecting contracts that such holder claims to have exercised his right of renewal for the period mentioned in the affidavit and that note shall, as from the date thereof, be effective notice of the claim to all persons affected by the contract.

(3) The affidavit aforesaid shall be made by the registered holder of the prospecting contract or by his agent duly authorized in writing and shall state that the registered holder has, within the period specified in the contract, fulfilled all those conditions thereof which entitle him to a renewal of the contract and that he does thereby exercise his right to renew the same.

Registration  
of prospecting  
contracts  
entered into  
before  
Ordinance  
No. 11 of  
1904.

27. (1) The holder of any prospecting contract entered into before the taking effect of Ordinance No. 11 of 1904 may, whether or not such contract has been registered in the register of miscellaneous contracts (*diverse akten*), bring that contract under the provisions of this Act by tendering it for registration in the register of prospecting contracts and by lodging with the Registrar of Deeds

(a) an affidavit by the holder of the contract or his agent duly authorized in writing, stating that the holder has fulfilled all the terms and conditions of the contract and that the same is still of force and effect; provided that the grantor of the prospecting rights is, at the date when the

contract is tendered for registration, the owner of the land or the registered holder of the mineral rights affected by the contract ; or

(b) the written consent to the registration of the person (or his agent duly authorized in writing) who, at the date when the contract is tendered for registration, is the owner of the land or the registered holder of the mineral rights affected by the contract ; or

(c) an order of the Court directing registration of the contract.

(2) The Registrar of Deeds may note upon any title-deed to land affected by a prospecting contract registered under Ordinance No. 11 of 1904, the registration of that contract ; provided the written consent of the owner of that land be produced.

28. Whenever a deed purporting to be a prospecting contract contains any ambiguity which may be interpreted as constituting that deed a grant or lease of mineral rights, the Registrar of Deeds may register the deed as a prospecting contract provided a supplementary and explanatory deed, executed by all parties to the first-mentioned deed, or an affidavit made by all such parties explaining the purport and effect of the prospecting contract, be lodged at the Deeds Office ; but nothing in this section contained shall be deemed to modify the provisions of the law for the time being in force relating to transfer duty.

Registering of prospecting contracts containing certain ambiguities.

29. Upon the written request of the grantor of a prospecting contract

(a) the registration of which has, under section *twenty-six*, ceased to be of effect ; or

(b) to the renewal of which no claim has been lodged, or, if lodged, has lapsed by effluxion of time.

the Registrar of Deeds may cancel the note of the registration and notes of that contract in the Deeds Office and upon the title of the grantor to the land or mineral rights affected by the contract.

Cancellation of notes of registration of prospecting contracts no longer in force.

For the purposes of this section the expression "grantor" shall include the person recognized for the time being in the Deeds Office as the holder of the mineral rights.

30. (1) Upon the written application to the Registrar of Deeds of any person who has transferred land subject to a reservation of mineral rights thereon, the Registrar of Deeds shall, if there be produced to him the title-deed under which that land is held, and, where necessary, a diagram showing the area affected by the mineral rights so reserved, issue a certificate as nearly as may be in the form in the Seventh Schedule to this Act. It shall be the duty of the holder of that title-deed to produce the same upon the demand of the person who is making an application under this section.

Certificate of reservation of mineral rights to transferor of land.

(2) The said certificate shall

(a) set forth the mineral rights so reserved and any rights ancillary thereto ;

(b) be registrable against the title-deeds to the land in respect of which the mineral rights are so reserved ;

(c) be registered in the register of mineral contracts, and, when so registered, shall constitute a good and valid title to the mineral rights so reserved.

Cancellation of registration of leases, prospecting contracts and servitudes in certain circumstances.

31. Whenever it is expressly provided in a document registered in the Deeds Office being

(a) a lease of land or mineral rights ; or

(b) a prospecting contract ; or

(c) an instrument creating or evidencing a servitude ;

that it shall lapse upon failure to pay regularly any periodical amounts provided for therein, the Registrar of Deeds may, upon application, accompanied by an affidavit by the lessor or grantor (as the case may be) that the said periodical amounts have not been duly paid, cancel the registration of that lease, contract, or servitude ;

Provided that

(1) where the address of the lessee or grantee is stated in the document, the Registrar of Deeds shall give notice to him by prepaid registered letter that cancellation of the registration of the document is sought on the ground of non-payment of periodical amounts provided for therein and that, unless written objection to the cancellation be lodged within one month if the address be in South Africa, or within three months if the address be elsewhere than in South Africa, the registration of the document will be cancelled ;

(2) where the address of the lessee or grantee is not stated in the document the Registrar of Deeds shall, at the expense of the applicant, give the notice aforesaid in the *Gazette* and in a newspaper circulating in the district of the lessee's or grantee's last known address, being an address to be stated upon affidavit by the lessor or grantor ;

(3) if any objection be lodged which, in the Registrar of Deed's opinion, affords reasonable ground for refusing cancellation of the registration, he shall refuse cancellation until the objection is withdrawn or until he is otherwise ordered by the Court ;

(4) where a document mentioned in paragraph (a) or (c) of this section has lapsed by effluxion of time, the Registrar of Deeds may, on the written request of the grantor of the rights evidenced by that document or of his successor in title, cancel the registration of the document and the notes thereof on the grantor's title to the land or mineral rights (as the case may be).

Registration of notarial deeds relating to minerals executed under former laws.

32. (a) Every such notarial deed as is provided for in article *fourteen* of Law No. 7 of 1883 or article *sixteen* of Law No. 20 of 1895 ; and

(b) every notarial lease which, if executed subsequent to the taking effect of the Transfer Duty Proclamation 1902, would be registrable against the title-deeds of the property affected by the lease,

registered in the register of *diverse akten* of the deeds office of the South African Republic, but not against the title-deeds of

the property affected, shall, upon production to the Registrar of Deeds, be noted in the land register of that property and a note of that notarial deed or lease (as the case may be) shall be endorsed upon the titles to that property ;

Provided that

(1) there be lodged with the Registrar of Deeds a receipt for any transfer duty then payable under the laws aforesaid, or for duty to which the deed or lease is, at the commencement of this Act, liable under the law relating to transfer duty or stamp duty in force at such commencement ;

(2) there be produced to the Registrar of Deeds the written consent of the owner of the property affected by the deed or lease to the endorsement on his title-deeds, together with those title-deeds or an order of the Court directing the endorsement to be made ;

(3) all regulations relating to leases of land or of mineral rights (as the case may be) have been complied with.

Whenever such an order of the Court as is mentioned in the second proviso to this section has been made, registration against the title-deed filed in the Deeds Office shall be deemed to be effective registration.

#### ANTENUPTIAL CONTRACTS.

33. (1) An antenuptial contract executed in this Colony shall not be registered in the Deeds Office unless it has been executed before a notary public.

Registration of antenuptial contracts executed in this Colony.

(2) An antenuptial contract executed in this Colony before the commencement of this Act, shall, unless registered in the Deeds Office within six months after such commencement or within such further period as the Court may upon application allow, be of no force or effect as against creditors in insolvency.

(3) An antenuptial contract executed in this Colony after the commencement of this Act, shall, unless registered in the Deeds Office within one month after the date of its execution or within such period as the Court may upon application allow, be of no force or effect as against creditors in insolvency. It shall be the duty of the notary public before whom that antenuptial contract is executed to obtain registration thereof.

34. (1) An antenuptial contract executed outside this Colony may, whether or not it has been notarially executed, be registered in the Deeds Office if executed in accordance with the law and practice relating to antenuptial contracts of the country, colony, or territory in which it was executed, but in every such case the contract shall, together with a duplicate original or a copy thereof,

Registration of antenuptial contracts executed outside this Colony.

(a) certified by the registrar of deeds (if any) of that country, colony, or territory ; or

(b) certified by a notary public practising in this Colony ;  
be filed at the time of registration, and thereafter shall have in this Colony, as from the date of registration, the same force and effect as against creditors in insolvency as if it had been executed before a notary public in this Colony.

(2) An antenuptial contract executed outside this Colony and registrable in the Deeds Office in accordance with this section, shall be of no force and effect as against creditors in insolvency until it is registered in the Deeds Office.

## CHAPTER II.

### MINING TITLES OFFICE.

Duties of  
Registrar of  
Mining Titles.

35. The Registrar of Mining Titles shall be in charge of the Mining Titles Office and his duties shall, subject to the provisions of this Act and the regulations, be

- (a) to take charge of, and preserve all records of title-deeds, documents, and diagrams of every kind relating to mining title or stand title which were, immediately prior to the commencement of this Act, records of the Mining Titles Registration Office ;
- (b) to register all mining titles and stand titles issued in accordance with law, to certify, sign, and transfer, transfers or cessions or renewals thereof, and to take charge of and preserve all records of such titles and the deeds, documents, and diagrams of every kind incidental to the registration of such titles, transfers, or cessions ;
- (c) to register all certificates of bezitrecht and water-rights granted under the Precious and Base Metals Act, 1908, or any amendment thereof, or under Law No. 15 of 1898 or a prior law, and register any transfer of such certificates or water-rights as well as transfers of *bewaarplaatsen* ;
- (d) to register all surface rights ;
- (e) to certify, sign, and register all mortgage bonds specially hypothecating any mining title or stand title or any lease thereof, or specially hypothecating water-rights or *bewaarplaatsen*, and to register any servitude or encumbrance contained in a deed of transfer of any mining title or stand title or created by notarial deed or order of a court of law ;
- (f) to register cessions of registered bonds ;
- (g) to register against any bond registered in his office any notarial deed or deeds whereby the conditions of that bond or the rate of interest payable by reason thereof are varied ;
- (h) to cancel or partially cancel any registered bond or registered deed (other than a deed of transfer) and to release from the operation of such bond the whole or any part of the property thereby specially hypothecated ;
- (i) upon the registration of any document to make all such endorsements on the registered title or other document in his office as may be necessary to give effect to that registration ;
- (j) to keep a register of all interdicts and orders of the Court served upon him and affecting the transfer of any title registered in his office, and of all notices relating to estates furnished to him by the Master ;

(k) to keep all such debt and other registers as may be necessary for the due performance by him of his duties ;

(l) to give immediate notice to the Registrar of Deeds of all renewals, transfers, leases, cessions of leases, and of all mortgages, cancellations of mortgage and other encumbrances of any mynpacht brief, or of any lease under the Base Metal Law Amendment Ordinance 1903, and like notice of any amendment made of errors in documents under the authority of paragraph (b) of section *forty-four* ;

(m) to give immediate notice to the Mining Commissioner of any mining district of all registrations effected in the office in relation to any mining title, stand title, certificate of bezitrecht, water-right, *bewaarplaats*, or surface right in that district ;

(n) generally to carry out the objects and purposes of so much of this Act and the regulations as apply to the Mining Titles Office.

36. Every transfer of a mining title or stand title, every cession of a lease thereof, and every transfer of a water-right shall be accompanied by such diagram or plan of the ground held under that title as is provided in the Precious and Base Metals Act, 1908, unless such a diagram or plan is, at the date of the transfer, already filed in the office.

Conditions of registration of mining or stand titles.

Every transfer of a *bewaarplaats* shall also be accompanied by a diagram thereof, unless such a diagram is at the date of the transfer already filed in the office.

37. (1) From and after the commencement of this Act more than one mining title or stand title, or different kinds of mining titles or stand titles, may be transferred from one holder by one and the same deed of transfer, and notwithstanding that they may be situate on different farms or on different portions of the same farm or in different mining districts.

Transfer or lease of mining title or stand title

(2) If it be sought thereafter to transfer, hypothecate, lease, or otherwise encumber any mining title, or stand title, transferred in accordance with sub-section (1) of this section, the provisions of sub-sections (2) (3) and (4) of section *eighteen* shall *mutatis mutandis* apply.

38. (1) The Mining Commissioner of every mining district shall, as soon as any surface right has been granted under Part II of Chapter IX of the Precious and Base Metals Act 1908 and before issue to the grantee of the documents evidencing the grant, transmit to the Registrar of Mining Titles those documents together with all other documents, diagrams, or plans connected therewith, and thereupon the originals of all those documents and copies of the diagrams or plans shall be filed of record in the office.

Mining Commissioner to transmit to Registrar of Mining Titles original documents in connection with grants of surface rights.

(2) The Mining Commissioner shall further, as soon as he has made any reservation under the powers of the Precious and Base Metals Act of 1908, transmit in writing to the Registrar of Mining Titles full information of the situation and nature of that reservation.



Diagrams not approved by Surveyor-General to be approved if found correct.

39. (1) Whenever, in respect of mining title or stand title, a diagram not approved or confirmed by the Surveyor-General has, prior to the commencement of this Act, been filed in the office, that diagram, if found correct, shall be approved by the Surveyor-General without fee or charge.

(2) The Registrar of Mining Titles may at any time demand from a holder of title described in this section the production of his copy or such a diagram for the purposes of approval by the Surveyor-General and, until that demand has been complied with, no transfer or hypothecation of the title shall be registered in the office.

Deeds Office law and practice to be followed in Mining Titles Office unless otherwise provided in this Chapter or in Chapter III.

40. Whenever any act, matter, or thing may or is required to be performed, dealt with or done in the Mining Titles Office and no special provision exists in this Chapter or in Chapter III directing the manner in which that matter or thing is to be performed, dealt with, or done, the provisions of Chapter I shall *mutatis mutandis* and as far as possible be applied for the purpose of performing the act, dealing with the matter, or doing the thing.

## CHAPTER III.

### GENERAL.

Interpretation of terms used in this Chapter.

41. In the interpretation of this Chapter "each Registrar" shall mean the Registrar of Deeds and the Registrar of Mining Titles ;  
"office" or "office concerned" shall mean the Deeds Office or Mining Titles Office as the context shall require ;  
"the Registrar" or the "Registrar concerned" shall mean the Registrar of Deeds or the Registrar of Mining Titles, as the context shall require.

Inspection of registers, etc., and obtaining of information from registration offices.

42. Each Registrar shall permit any member of the public, upon payment of the prescribed fees, to inspect the public registers and other like records in his office and to obtain copies of or extracts from those registers or records and such other information concerning documents filed in his office as has been heretofore customarily obtainable.

Registers to be taxing officers.

43. Each Registrar shall exercise, in case of dispute, all the functions of a taxing officer of the Court in relation to the fees charged by notaries public or conveyancers for performing or carrying out the several acts, matters, or things which are required or permitted to be performed or carried out by them under this Act or the regulations.

General powers of Registrar of Deeds and Registrar of Mining Titles.

44. Each Registrar shall have power  
(a) to require proof upon oath or solemn declaration or other supporting evidence of any fact necessary to be established in connection with any matter or thing sought to be carried out or effected in the office ;  
(b) whenever, in consequence of an error in any document whether in the name or in the description of any person or property therein mentioned, it is found necessary to amend that document, to amend the error subject to the production

of the consent in writing of every person interested; provided that if the error is common to two or more interdependent documents, both or all those documents shall be amended; provided further that if any such interested person refuse to consent to the amendment, the same shall not be made, except upon the order of the Court;

(c) to issue copies of documents registered in his office in lieu of originals which have been lost, destroyed or so defaced or mutilated as to be illegible or unserviceable.

45. (a) No deed of transfer, bond, or other document affecting the title to land shall be registered in the Deeds Office; and

(b) no deed of transfer, bond, or other document affecting a mining title or stand title and no cession of a lease thereof shall be registered in the Mining Titles Office,

Government and municipal taxes to be paid before registration.

unless accompanied by a receipt or certificate from a competent revenue officer that all taxes, duties, fees, and dues payable to the Government on the property to be transferred, hypothecated, or encumbered, have been paid, and, where any rates or charges are payable in respect of that property to a local authority and it is prescribed by law that no transfer or cession of property shall be passed before a registering officer till such rates and charges are paid, then unless accompanied also by a receipt or certificate from a competent municipal officer that those rates and charges also have been paid.

46. (1) No deed of transfer, deed of grant, or certificate of title registered in the Deeds Office shall, save as in Chapter I of this Act or in any other law is specially provided, be cancelled by the Registrar of Deeds except upon an order of the Court.

Transfers to be cancelled upon order of Court only.

(2) No deed of transfer registered in the Mining Titles Office shall, save as in any other law is specially provided, be cancelled by the Registrar of Mining Titles except upon an order of the Court.

47. If any person, partnership, or company registered in the office concerned as the owner of immovable property, or as the holder of mineral rights, or as the holder of mining or stand title, or as a party to a mortgage bond, or as a mandant or mandatory in a power of attorney, changes his or its name, the Registrar concerned may, upon written application to him by that person, partnership, or company, and upon his being satisfied that there has been no change of person in law, alter that name in such deed, mortgage bond, or power of attorney, and in the office registers, so as to accord with the name which the person, partnership, or company then bears; provided that where there are two or more interdependent documents, both or all such documents shall be amended.

Registration of changes of names of persons, etc., registered as holding property or title.

48. (1) As often as it shall appear from the liquidation account of any insolvent estate and from the vouchers annexed thereto that a payment has been made to any creditor on account of a registered obligation of debt, the Master shall notify that payment to the Registrar concerned, who shall thereupon write off the same in the debt register of his office and also, if possible, on that obligation of debt.

Duties of Master to notify certain payments and make certain payments in connection with insolvent estates.

(2) The Master shall from time to time transmit to the Registrar concerned a return specifying

- (a) the name and address of every person who has obtained his discharge or rehabilitation after the sequestration of his estate under the law for the time being relating to insolvency; and
- (b) the property and registered obligations of debt appearing in that person's schedules or in the liquidation account of his estate;

and upon receipt of that return the Registrar concerned shall make an endorsement in the debt register of his office against all debts registered against such person prior to the sequestration of his estate. That endorsement shall effectually cancel the registered obligation of debt.

If possible, the Registrar shall make upon the obligation of debt like endorsements to those which he has made in the debt register.

(3) The provisions of sub-section (1) of this section shall apply *mutatis mutandis* to insolvent companies in the course of being wound up under the law for the time being in force relating to the winding up of companies.

Where hypothecation is for future debts that fact is to be expressly stated and a maximum amount fixed.

49. (1) No document of hypothecation executed at any time after the coming into operation of Proclamation (Transvaal) No. 10 of 1902 or hereafter, shall be of any force or effect for the purpose of giving preference or priority to the payment of any advances, debts, or demands made or accruing after the date of that document

- (a) unless it<sup>s</sup> is expressly stipulated therein that it is intended to cover or secure future advances, debts, or demands, generally or some particular advance, debt, or demand to be in that document described; and
- (b) unless a sum is fixed in that document as a sum beyond which future advances, debts, or demands shall not be deemed to be covered or secured by the hypothecation created by that document.

(2) In every document of hypothecation executed after the commencement of this Act the sum in respect of which preference or priority is to be given to future advances, debts, or demands, shall be stated, except in the case of a document as shall be executed under a power of attorney given before the commencement of this Act.

Transfer of land, etc., partitioned when same is hypothecated under a mortgage bond.

50. (1) If upon the partition of land or mining title or stand title or of any lease of mining title or stand title held in undivided shares, any share or shares of any owner or holder thereof be hypothecated under any mortgage bond, the Registrar concerned may, upon production to him

- (a) of every such bond; and
- (b) of the written consent, purporting to be given under this section, of the mortgagor and of the legal holder of every such bond,

pass transfer or issue a certificate to that owner or holder of any portion or share in any portion awarded to him on the partition,

notwithstanding that the bond remains uncanceled; provided that the Registrar concerned, when the transfer is passed or the certificate issued, shall

- (i) endorse on every such bond that the portion or share in a portion is under this section substituted for the share or shares previously held by the owner;
- (ii) make an entry of substitution in the debt register;
- (iii) endorse on the title-deed of the portion or share in a portion, that such portion or share is, in terms of this section, hypothecated by that bond or bonds.

(2) The provisions of sub-section (1) of this section shall *mutatis mutandis* apply when erven, stands, or lots in a township situate upon land held in undivided shares are partitioned between the owners of that land in such a manner that some of those erven, stands, or lots will be transferred to each of those owners, provided any of those shares were hypothecated prior to the establishment of that township; and in the application of subsection (1) the Registrar concerned shall make like endorsements and entry to those therein described, but varied to meet the circumstances in this sub-section described.

(3) After the endorsements and entry have been completed, any portion or share in any portion of the land, mining title, stand title, or lease so transferred or registered shall be deemed to be hypothecated as fully and effectually as if every such portion or share in a portion had been originally hypothecated by the said bond.

#### REGISTRATION OF DERELICT PROPERTY.

51. (1) Any person who has by prescription, contract, or in any other manner acquired the lawful right to the ownership of immovable property, mining title, or stand title in this Colony registered in the name of any other person and who is unable to procure registration of the same in his name by reason of the death, mental incapacity, insolvency, or absence from the Colony of the person in whose name that property or title is registered, or of any person through or from whom the right has been mediately or immediately derived or owing to any other cause, may petition the Court for an order for the registration in his name of that property or title.

Mode of obtaining registration of title to derelict property, etc., by persons entitled to such registration.

(2) Any person who acquires by expropriation the right to immovable property, mining title, or stand title and is entitled to obtain but cannot obtain registration thereof in the ordinary manner and in accordance with the usual forms, may petition the Court for an order for the registration in his name of that property or title.

(3) The Court may refer any such petition to the Registrar concerned for report and may grant a rule setting forth the description of the property or title (as the case may be) as mentioned in the petition, and calling upon all persons having or claiming to have any right to that property or title to appear and establish their claims thereto upon a day named in the rule or be for ever barred, and may direct the mode of service or publication of the rule.

(4) If any person appear to show cause against the rule the Court may, without requiring the issue of summons, order any question of fact to be tried upon pleadings or may make any order which will determine the matter in dispute in the most speedy and inexpensive manner.

(5) Upon consideration of the petition or upon receipt of the report of the Registrar concerned or upon the return of the rule aforesaid, the Court may, unless good cause be shown to the contrary, order the Registrar concerned to register the property, mining title, or stand title (as the case may be) in the name of the petitioner, subject to such terms and conditions as may be mentioned in the order.

(6) Subject to the terms of that order any conventional hypothecation, registered servitude, or encumbrance over the property, mining title, or stand title so registered which exists at the date of the registration shall attach to the said property or title precisely as it then exists, and all usual and proper entries and endorsements upon and in regard to any deed of transfer issued by the Registrar concerned in obedience to the order shall be made in the appropriate register of the office concerned before that deed is delivered to the person entitled thereto.

(7) Every registration made in favour of any person in pursuance of an order made under this section shall have the effect of vesting in that person the right to the immovable property, mining title, or stand title (as the case may be).

(8) That right shall or shall not respectively be liable to be annulled, set aside, limited, or affected upon every ground and on account of every and any cause, matter, or thing by reason of which the right would or would not have been liable to be annulled, set aside, limited, or affected if the property, mining title, or stand title had been regularly transferred to and in favour of the said person and in favour successively of every person through or from whom his right was derived or acquired.

52. When any order has been made under the last preceding section, the person in whose favour that order was made shall be liable to pay such taxes and duties in respect of the registration to be effected as he would have been liable to pay if the property, mining title, or stand title (as the case may be) had been transferred to him directly and in due form of law by the person in whose name it was last registered; and the registration directed shall not be suspended or stayed by reason of the non-payment of any tax, duty, or fine which the last-mentioned person or any one through or from whom he derived the right may have become liable for or incurred, unless the person in whose favour the order was made has by agreement specially bound himself to pay that tax, duty, or fine, or unless the delay in obtaining the registration in his name was due to the neglect or default of himself or his agent;

Provided that any person who has become liable for or incurred any such tax, duty, or fine shall be and continue personally liable for the same, notwithstanding that by the said order the property, mining title, or stand title (as the case may be) has been registered as directed in the order.

53. Upon production to the Registrar concerned of any order made under section *fifty-one* and of a certificate from the proper officer that any transfer duty payable has been paid, the Registrar concerned shall issue a deed in respect of the immovable property, mining title, or stand title (as the case may be) as nearly as possible in the form set forth in the Eighth Schedule to this Act, but subject to such conditions and stipulations as would have been contained in a deed passed in the usual form and to any other conditions directed by the order.

Form of registration under the order of Court.

54. Any sum of money which the Court making any such order shall find to be due to any person by the person in whose favour the order is made shall, if the first-named person be absent from the Colony, or unknown, or a minor, be paid to the Master to the credit of the person entitled to that money or otherwise as the Court may order.

Surplus of proceeds to be paid to Master.

55. (1) Notwithstanding anything in sections *fifty-one* to *fifty-four* inclusive contained, any person who has acquired in any other manner than by prescription or expropriation the lawful right to the ownership of immovable property, or to mining title or stand title in this Colony registered in the name of any other person and who is unable to procure registration of the same in his name for the reasons set forth in sub-section (1) of section *fifty-one* may, in lieu of applying to the Court as in that section is provided, apply in writing to a standing commission consisting of the Registrar of Deeds, the Registrar of Mining Titles, and the Surveyor-General.

Alternative method of obtaining registration of title in cases other than property acquired by prescription or expropriation.

(2) That commission shall have all the powers, privileges, and jurisdiction mentioned in section *five* of the Commissions Powers Ordinance 1902.

(3) The Registrar of Deeds shall be chairman of the commission and all applications under this section shall be made to him.

(4) As soon as any such application is received a notice shall be published at the expense of the applicant in three successive ordinary issues of the *Gazette* and once in each of three successive weeks in one or more newspapers circulating in the district in which the property affected is situate.

(5) That notice shall call upon all persons who object to the grant of the application to lodge their objections and the grounds thereof in writing with the chairman of the commission within two months from the date of the first publication of the notice or within such extended period as the commission may allow.

(6) Upon the expiry of the period or the extended period (if any) the commission shall inquire into the application and the objections (if any) and may order that the immovable property, mining title, or stand title (as the case may be) be transferred or ceded to the applicant subject to terms and conditions (if any) mentioned in the order. The commission may further make such order as to costs of or in connection with the application or objections (if any) as it deems just and that order may be enforced and the costs shall be taxed as if the order were an order of the Court as to costs.

(7) An appeal shall lie to the Supreme Court against any decision of the commission under this section, but notice of the appeal shall be given, within fourteen days from the date of the decision, to the other party, to the Registrar of the Supreme Court, and to the chairman of the commission.

The Registrar concerned shall not act upon the order of the commission in any case until the expiry of the time hereby allowed for noting an appeal, or if an appeal be noted, until the appeal has been determined in favour of the respondent or withdrawn.

(8) The provisions of sections *fifty-one* to *fifty-four* inclusive shall *mutatis mutandis* apply in respect of orders made under this section by the commission.

#### MISCELLANEOUS.

Authentica-  
tion of powers  
of attorney  
executed in  
this Colony

56. Any power of attorney executed within this Colony after the commencement of this Act which purports to give authority to pass, cede, amend, or cancel a deed, or to perform any act proper to be performed in the Deeds Office or Mining Titles Office shall be signed in the presence of a magistrate, justice of the peace, or a notary public, who shall attest the same and the date thereof by his signature and by his seal of office (if any).

Cancellation  
of registration  
of lost  
documents.

57. Whenever a copy of a document is required solely for the purpose of registering the cancellation thereof, and all necessary steps have been taken to obtain a certified copy in lieu of the lost or destroyed original, the Registrar concerned may, if there is no valid objection to the issue of such a copy, dispense with the production thereof.

Certificate  
may be  
prepared by a  
conveyancer.

58. Every certificate the form of which is set forth in the Second to the Eighth Schedules inclusive to this Act may be prepared and tendered for registration by a conveyancer.

Power to  
make regula-  
tions.

\*59. (1) The Governor may from time to time make, alter, or rescind regulations (not inconsistent with this Act), in relation to the Deeds Office or to the Mining Titles Office, or both such offices, prescribing

(a) the fees (if any) to be charged in respect of any act, matter, or thing required or permitted to be done ;

(b) the manner and form in which any document required to be registered or preserved of record, shall be prepared, executed, registered, or recorded ;

(c) the manner and form in which information which is required by law to be furnished to the office concerned, shall be recorded in that office, and the manner and form in which information which is permitted by law to be furnished to the public, shall be furnished, and, in the case of the Mining Titles Office, the manner and form in which information relating to mining title, stand title, water-rights, or surface rights shall be recorded by Mining Commissioners ;

(d) the manner and form in which the land registers to be kept by magistrates under Chapter I of this Act shall be entered up and kept ;

\* For regulations made under this section see Govt. Notices Nos. 999 of 1909 (*Gazette Extraordinary*, 21/8/09), 181 and 188 of 1910 (*Gazette*, 18/2/10).

- (e) the conditions under which copies of documents may be issued in lieu of original documents which have been lost, destroyed, defaced, or mutilated ;
- (f) the manner and form in which consent shall be signified to the cancellation, cession, part payment, release, or amendment of documents, or change of order of ranking of bonds ;
- (g) the powers and duties of the Registrar of Deeds or of the Registrar of Mining Titles and other persons employed in either office ;

and generally for efficiently carrying into effect the objects for which either office exists and the purposes of this Act.

(2) All regulations made under the laws hereby repealed and in force at the commencement of this Act shall, so far as they apply to any matter dealt with under any Chapter of this Act and are not inconsistent therewith, be deemed to be regulations made under this Act.

(3) No regulation, other than is mentioned in sub-section (2), or any alteration or rescission of any regulation shall be of force and effect unless it has been published in draft for fourteen days in two ordinary issues of the *Gazette* at any time preceding the day upon which it is expressed to take effect.

(4) Every regulation made under sub-section (1) and every alteration or rescission of any regulation shall within seven days after it has taken effect be laid upon the tables of Parliament, if Parliament be then in Session, or, if it be not then in Session, within seven days after the commencement of its next ensuing Session.

60. This Act may be cited for all purposes as the Registration of Deeds and Titles Act 1909 and shall come into operation on a date to be hereafter fixed by proclamation of the Governor in the *Gazette*.\*

Title and date of operation of Act.

*FIRST SCHEDULE.*

Laws Repealed.	Extent of Repeal.
Deeds Proclamation 1902 [Proclamation (Transvaal) No. 10 of 1902]	The whole.
Deeds Proclamation Amendment Ordinance 1903 (Ordinance No. 65 of 1903)	The whole.
Registration of Prospecting Contracts Ordinance 1904 (Ordinance No. 11 of 1904)	The whole.
Town Lands Amendment Ordinance 1905 (Ordinance No. 2 of 1905)	Section <i>one</i> .
Mining Titles Registration Act 1908 (Act No. 29 of 1908)	The whole, except sections <i>one</i> and <i>sixteen</i> .
Townships Amendment Act 1908 (Act No. 34 of 1908)	Sections <i>fifty-seven</i> and <i>fifty-eight</i> .

\* See Proc. (Admn.) No. 61 of 1909 (*Gazette*, 13/8/09, p. 686), putting the Act in operation on 1st September, 1909.



*SECOND SCHEDULE.*

## CERTIFICATE OF AMALGAMATED TITLE.

KNOW ALL MEN WHOM IT MAY CONCERN

That,....., having applied for the issue to him of a certificate of amalgamated title under section *seven* of the Registration of Deeds and Titles Act 1909 and it appearing that he is the registered owner of the land hereinafter described held under certain .....(here describe the deeds of grant or transfer under which the applicant holds).....

Now therefore, in pursuance of the provisions of the said Act, I, the Registrar of Deeds, do hereby certify that the said.....is registered as the owner of.....(describe the property)..... as will more fully appear from the annexed diagram subject to such conditions as are mentioned or referred to in the said.....(describe the deeds of grant or transfer).....And further subject to the following servitudes, hypothecations, leases, or other encumbrances (as the case may be).

And that by virtue of these presents the said....., his heirs, executors, administrators, and assigns now is and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the Registrar of Deeds, have subscribed to these presents and caused my seal of office to be affixed hereto.

Thus done and executed at the Office of the Registrar of Deeds, Pretoria, on this the.....day of.....in the year of our Lord, One thousand Nine hundred and.....

.....  
*Registrar of Deeds.*

Registered in the register of.....kept at Pretoria, Book....., page....., on the above date.

NOTE.—When the certificate is issued under an order of the Court the necessary recital of the order is to be made.

*THIRD SCHEDULE.*

## CERTIFICATE OF TITLE.

I,....., Registrar of.....do hereby certify that under and by virtue of Deed of Transfer No.....dated the.....day of.....is the registered owner of.....(describe the property and all servitudes and encumbrances).....and that in substitution of such deed the said.....his heirs, executors, administrators, and assigns by virtue of these presents now is and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the Registrar of.....have subscribed to these presents and caused my seal of office to be affixed thereto.

Thus done and executed at the Office of the Registrar of.....  
Pretoria this the.....day of.....in the year of  
Johannesburg our Lord, One thousand Nine hundred and.....

.....  
*Registrar of*.....

Registered in the register of.....kept at Pretoria  
Book....., page....., on the above date. Johannesburg

*FOURTH SCHEDULE.*

PARTITION TITLE.

Whereas.....is under and by virtue of Deed of Transfer No.....dated the.....day of.....the registered owner of a.....share of and in the.....(here describe the property).....and whereas the said.....and the co-owners of the said property have entered into a deed of partition which has been filed in the Deeds Office.

Now therefore, I....., the Registrar, hereby certify that by virtue of these presents the said.....is the registered owner of.....(describe the property).....as will more fully appear from the annexed diagram framed by Surveyor.....on the.....day of.....subject to the following conditions, servitudes, and encumbrances, to wit :—

.....and that the said.....his heirs, executors, administrators, and assigns now is and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the Registrar of Deeds, have subscribed to these presents and caused my seal of office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds, Pretoria, on this the.....day of.....in the year of our Lord, One thousand Nine hundred and.....

.....  
*Registrar of Deeds.*

Registered in the register of.....kept at Pretoria, Book....., page....., on the above date.

*FIFTH SCHEDULE.*

PARTITION TITLE.

Whereas.....is under and by virtue of Deed of Transfer No.....dated the.....day of.....the registered owner of a.....share of and in.....(here describe the property).....and whereas the said.....and the co-owners of the said property have entered into a deed of partition which has been filed in the Deeds Office and whereas a portion or portions of the aforesaid property have, in terms of the aforesaid deed of partition, been allotted to.....

Now therefore, I, the Registrar of Deeds, hereby certify that by virtue of these presents the said.....is the registered owner of an undivided.....share in the remaining extent.....(here describe the property).....subject to the following conditions, servitudes, and encumbrances, to wit :—

.....and that the said.....his heirs, executors, administrators, and assigns now are and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the Registrar of Deeds, have subscribed to these presents and have caused my seal of office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds, Pretoria, on the.....day of.....in the year of our Lord, One thousand Nine hundred and.....

.....  
*Registrar of Deeds.*

Registered in the register of.....kept at Pretoria, Book....., page....., on the above date.

SIXTH SCHEDULE.

CERTIFICATE OF REGISTERED TITLE.

(Under section twenty-four of the Registration of Deeds and Titles Act, 1909.)

KNOW ALL MEN WHOM IT MAY CONCERN :

That ..... having applied for the issue to him of a certificate of registered title under section twenty-four of "The Registration of Deeds and Titles Act, 1909," in lieu of deed of grant (or deed of transfer) (here describe the deed of grant or transfer under which the applicant holds) which has been lost or destroyed, and it appearing from the registers of the Deeds Office that he is the registered owner of the land hereinafter described ;

Now, therefore, in pursuance of the provisions of the said Act, I, the Registrar of Deeds, do hereby certify that the said ..... is the registered owner of (describe the property) as will more fully appear from the annexed diagram, subject to the following conditions, to wit :

And that by virtue of these presents the said, ..... his heirs, executors, administrators, and assigns now is and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the Registrar of Deeds, have subscribed to these presents and caused my Seal of Office to be affixed thereto.

This done and executed at the Office of the Registrar of Deeds, Pretoria, on this the ..... day of ..... in the year of Our Lord One thousand Nine hundred and .....

Registrar of Deeds.

Registered in the Register of ..... kept at Pretoria, Book ....., page ....., on the above date.

SEVENTH SCHEDULE.

CERTIFICATE OF MINERAL RIGHTS.

Whereas ..... is the holder of the mineral rights in and upon ..... (describe the property) ..... under and by virtue of deed of transfer (or certificate of registered or amalgamated title) No. .... dated the ..... day of ..... which said property; is now registered in the name of ..... by .....

Now therefore, I, the Registrar of Deeds, hereby certify that the said ..... is the registered holder of mineral rights in and upon the said property as will more fully appear from the annexed diagram framed by Surveyor ..... on the ..... day of ..... subject to the following conditions

and entitled to the following rights upon the said property .....

Given under my hand and seal of office this the ..... day of ..... 19.....

Registrar of Deeds.

Registered in the Mineral Contracts Register on the above date.

EIGHTH SCHEDULE.

DEED OF TRANSFER.

No.....  
19.....

KNOW ALL MEN WHOM IT MAY CONCERN :

That in obedience to an order of the Court under the provisions of section *fifty-three* of the Registration of Deeds and Titles Act 1909 :

I, the Registrar of.....do hereby cede and transfer in full and free property to and on behalf of.....his heirs, executors, administrators, and assigns, certain (here describe the property) subject to the following servitudes, leases, or other encumbrances (other than hypothecations) and that by virtue of these presents the said.....his heirs, executors, administrators, and assigns now is and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the said Registrar, have subscribed to these presents and have caused my Seal of Office to be affixed hereto.

Thus done and executed at the Deeds Office, Pretoria, on this Mining Titles Office, Johannesburg, the.....day of.....in the year of Our Lord One Thousand Nine hundred and.....

.....  
*Registrar of*.....

Registered in the register of.....kept at Pretoria  
Johannesburg  
Book....., page....., on the above date.

Act No. 26 of 1909.]

[Promulgated 16th July, 1909.]

## AN ACT

TO AMEND THE FENCING ACT 1908 (ACT NO. 12 OF 1908) AND  
PART II OF ORDINANCE NO. 38 OF 1904.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

Amendment  
of section  
three of  
Act No. 12  
of 1908.

1. (1) Sub-section (1) of section *three* of the Fencing Act 1908 shall be and is hereby amended by the deletion from the second line thereof of the words "of the freehold".

(2) Any advance made by the bank (as defined in that Act) prior to the coming into operation of this Act in respect of the fencing of land in this Colony held on quitrent (*leenings*) tenure, shall, notwithstanding anything in the said section contained, be deemed to have been lawfully made, provided the provisions of Chapter I of that Act were in other respects complied with.

Extension of  
Act No. 12  
of 1908 to  
municipal  
lands.

2. For the purposes of the said Act any area of land, other than erven, stands, or township lots registered in the name of any municipal council shall be deemed to be a holding, and that municipal council to be the owner of those lands.

Native owners  
outside  
locations to be  
liable for  
beneficial use,  
repairs, etc.

3. For the purposes of section *seven* and Chapter II of the said Act the expression "owner" shall include also a native who is the owner of land which is not a native location or mission station.

Amendment  
of section  
*twenty-two* of  
Act No. 12  
of 1908.

4. Section *twenty-two* of the Fencing Act 1908 shall be and is hereby amended by the deletion therefrom of the words "sub-sections (1) and (3) of".

Fencing of  
land over  
which grazing  
servitude  
exists at the  
partial cost of  
the holder of  
that servi-  
tude.

5. An owner of land shall have the right to fence or assist in fencing that land, notwithstanding that it is subject to a servitude of grazing in favour of the owner of other land, provided reasonable access be allowed to the live stock of the servitude holder by means of suitable gates; provided further that the holder of such servitude shall be liable for a share of the cost of erecting, maintaining, and repairing such fence proportionate to his interest in the grazing rights over the land, and, if any dispute arises as to the value of that interest, it shall be determined by the Minister of Agriculture.

6. (1) Anything to the contrary notwithstanding in section *fourteen* of Ordinance No. 38 of 1904, the owner (as in that section defined) shall only be liable to repay to the Government one-half the total cost to the Government of or incidental to the erection of the fence mentioned in that section; but the provisions of that section relative to yearly instalments and the rate of interest payable therewith shall apply in respect of the repayment of the half cost mentioned in this section of this Act.

Amendment  
of section  
*fourteen* of  
Ordinance  
No. 38 of 1904.

(2) Whenever in any other section of that Ordinance or any amendment thereof, any reference is made to the amount due or paid under section *fourteen* thereof, that reference shall, from and after the coming into operation of this Act, be deemed to be a reference to the amount due from an owner under this section of this Act.

(3) The Colonial Treasurer may refund to each owner who has repaid the amount due under the said section *fourteen*, or to his legal representatives the amount so repaid less half the total cost to the Government of and incidental to the erection of the fence mentioned in that section, with the interest at the rate mentioned in that section on that half cost. That owner or his representative shall make a proportionate refund of the amount which has been paid to him by any lessee under section *sixteen* of the said Ordinance.

(4) Any reference in sections *seventeen* and *eighteen* of the said Ordinance to the said section *fourteen* shall be deemed to be a reference to that section as amended by this section, and the Colonial Treasurer may make like refunds to the persons who have repaid the whole amounts due by them under the said sections *seventeen* and *eighteen* of the said Ordinance, as he may make under sub-section (3) of this section.

7. Section *twenty-one* of Ordinance No. 38 of 1904 shall be and is hereby repealed.

Repeal of  
section  
*twenty-one* of  
Ordinance  
No. 38 of 1904.

8. (1) In any case where Crown Land, or land subject to the provisions of section LII of the Transvaal Constitution Letters Patent 1906 has been heretofore, or may hereafter be, fenced under the provisions of Ordinance No. 38 of 1904, and has been leased under the Crown Land Disposal Ordinance 1903, the Settlers Ordinance 1902 or the Land Settlement Act 1907, the lessee shall, in addition to the rent payable under his lease, pay interest at the rate of three per cent. per annum upon one-half the total cost to the Government of and incidental to the erection of the fence.

Special  
provisions  
relating to  
repayment by  
settlers of  
cost of  
erecting  
fences under  
Ordinance  
No. 38 of  
1904.

(2) If a lease under the Crown Land Disposal Ordinance 1903 contains a right of conditional purchase of the land, then, upon that right being exercised, the conditional purchaser shall, as from the date of the exercise of that right, become liable for, and shall pay to the Government from time to time as prescribed by Ordinance No. 38 of 1904 the instalments due to the Government under the said Ordinance together with interest at the rate aforesaid. Any instalments which may be payable under this

section during the period of the lease shall be added to the purchase price of the land, and any instalments of purchase price which will become due under those terms of the lease relating to conditional purchase of the land shall be increased accordingly.

(3) The provisions of sub-section (2) shall *mutatis mutandis* be applied when a lease of land under the Settlers Ordinance 1902, or the Land Settlement Act 1907 is converted into a licence and shall further apply to land held under licence in accordance with those laws.

(4) Whenever the interest of a licensee of land held under such licence terminates under section *forty* of the Settlers Ordinance 1902 or any amendment thereof the instalments paid by him under this section in respect of fencing but not the interest on those instalments, shall be repaid to the said licensee.

9. This Act may be cited for all purposes as the Fencing Laws Amendment Act 1909 and shall come into operation on the first day of July 1909.

Title and date  
of operation  
of Act.

Act No. 27 of 1909.]

[Promulgated 16th July, 1909.

AN ACT

TO AMEND THE MASTER AND SERVANTS LAW 1880 (LAW NO. 13  
OF 1880).

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(Assented to 7th July, 1909.)

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BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. The expression "other remuneration" when used in the definitions of "master" and "servant" in Law No. 13 of 1880 shall, for the purpose of those definitions, include a right of the person employed, to occupy and cultivate land of the employer, other than for a direct money-rent or share of produce.

Amendment of article two of Law No. 13 of 1880 as to definitions of "servant" and "master" for purposes of such law.

2. This Act may be cited for all purposes as the Master and Servants Law Amendment Act 1909, shall come into operation on the date of its first publication as an Act in the *Gazette*, and shall be read as one with Law No. 13 of 1880.\*

Title and date of operation of Act.

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\* The Act was first published in the *Gazette* on the 16th July, 1909.



Act. No. 28 of 1909.] [Promulgated 16th July and again on 6th August, 1909, owing to error on first publication.

AN ACT

TO AMEND THE LAW RELATING TO THE PAYMENT OF DUTY UPON THE ESTATES OF DECEASED PERSONS.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

PRELIMINARY.

Repeal of laws.

Interpretation of terms.

1. Law No. 15 of 1899 shall be and is hereby repealed together with the provisions of any other law which may be repugnant to or inconsistent with the provisions of this Act.

2. In this Act and in any regulations made thereunder, unless inconsistent with the context

“company” shall mean any company incorporated or registered under the law for the time being of this Colony relating to the incorporation or registration of companies, and shall include also a company which, though not so incorporated or registered, carries on business in this Colony;

“debenture” shall include debenture stock;

“duty” shall mean the duty payable under and in accordance with this Act;

“executor” shall mean a person to whom letters of administration have been granted by the Master, for or in respect of the estate of a deceased person, under the law for the time being relating to the administration of estates of deceased persons, and shall include a person acting or authorized to act under letters of administration granted in a foreign country but signed and sealed by the Master under the law aforesaid;

“liquidation account” shall mean the account rendered, under the law for the time being relating to the administration of estates of deceased persons, by an executor to the Master of the administration and distribution of the estate of which he is executor;

“Master” shall mean the Master of the Supreme Court or any person lawfully acting in that capacity;

“prescribed” shall mean prescribed by the Treasurer or by regulation made under this Act;

“share” shall mean a share in the share capital of a company, and shall include stock into which any portion of the share capital has been divided;

“Treasurer” shall mean the Colonial Treasurer or any person for the time being lawfully acting in that capacity.

## CHAPTER I.

### GENERAL PROVISIONS AS TO ESTATE DUTY.

3. (1) Whenever any person shall die on or after the first day of July 1909, within or outside this Colony, there shall be payable to the Treasurer upon the net value of that person's estate, duty in accordance with the scale set forth in the Schedule to this Act, save as is otherwise provided in Chapter II of this Act.

Payment of estate duty to Treasurer by executor of net value of estates of deceased persons.

(2) The duty shall be paid by the executor of that person, save as is otherwise provided in section *eight* or in Chapter II of this Act.

(3) Duty shall also be payable in respect of any property or interest in property which was held by any such person, at the time of his death, upon a condition that it would, when that death occurred, pass to some other person.

4. For the purposes of this Act the estate of a deceased person shall include

What shall be deemed estate of a deceased person for the purposes of this Act.

(a) all property in this Colony of whatsoever description belonging to that person, whether movable or immovable, and any interest in such property, whether expectant or contingent, held by him at his death;

(b) any such property given by or passing from the deceased person as a *donatio mortis causa*;

(c) any such property passing under any disposition made by the deceased person and purporting to operate as a *donatio inter vivos*, unless the disposition was made at least one year before his death;

(d) any such property passing under any disposition or by reason of any act of the deceased person which was intended to operate at or after his death, or has the effect of so operating;

(e) any such property which, by any act or disposition of the deceased person, was so transferred, vested, or arranged that his ownership or beneficial interest therein or in any part thereof passed or accrued by survivorship upon his death;

(f) any such property which has passed to any one within one year prior to the death of the deceased person for the purpose of dividing the same, after the death of the deceased person, amongst his heirs or any of them;

(g) any limited interest in such property, whether or not such interest was or is to be determined by the death;

but the estate of a deceased person shall not, for the purposes of this Act, include the interest of the survivor of two spouses who were married in community of property.

How net value of an estate ascertained.

5. The net value of the estate of a deceased person shall be ascertained by deducting

(a) the debts and liabilities of the deceased person incurred bona fide and included in the liquidation account, except a liability for any property described in paragraphs (b) and (c) of section *four* ;

(b) the funeral expenses arising out of the death ;

(c) all costs and expenses of and incidental to the administration of the estate ;

Liquidation accounts to provide for duty.

6. (1) Every liquidation account shall provide for the payment of duty on the estate in respect of which the account purports to have been framed.

(2) An executor shall, upon lodging a liquidation account with the Master, pay the duty in respect thereof, and the Master shall not file a liquidation account in his office until he is satisfied that the duty is paid.

(3) Duty shall be assessable by reference to the liquidation account and shall be levied at the rate set forth in the Schedule to this Act upon the net value of all the assets included in that and in any preceding account, an allowance being made for any duty previously paid.

Recovery of duty from executor out of property under his control.

7. Before delivering or transferring any property of the deceased to any heir or legatee the executor shall deduct therefrom, or recover from such heir or legatee, the duty payable in respect thereof.

Recovery of duty payable in respect of limited interests in property.

8. Duty in respect of such property as is described in subsection (3) of section *three* shall be paid within twelve months after the death of the deceased to the Treasurer by the person to whom the property passes on the death, and the duty shall be payable out of that property, which may be declared executable by any court of competent jurisdiction.

Reference of questions of valuation to the Treasurer.

9. (1) As soon as any liquidation account has been lodged with the Master in accordance with the law for the time being relating to the administration of the estates of deceased persons, he shall transmit a copy of that account to the Treasurer. For the purposes of this section it shall be the duty of the executor to lodge with the Master at least two copies of the liquidation account, anything to the contrary in such law notwithstanding.

(2) The Treasurer shall cause every liquidation account transmitted to him to be examined and, if he has no objection to raise as to the valuation of the property included therein, that valuation shall be accepted for the purpose of assessing duty upon that property.

(3) If the Treasurer has any such objection, he shall notify the same to the Master who shall require the executor to amend the valuation to meet the Treasurer's objections. A valuation amended by the executor to meet the Treasurer's objections shall be accepted for the purpose of assessing duty upon the property, but if an executor fail, within a time prescribed, to amend the valuation to the satisfaction of the Treasurer, the Treasurer shall assess the amount of duty payable, subject to the rights given to the executor under section *sixteen*.

(4) Anything to the contrary in this section contained notwithstanding

(a) the price actually realized for property bona fide sold in the course of the administration of the estate shall be deemed to be its value ;

(b) the value of shares, debentures, and any property for which there are market prices or prevailing rates of value, shall be in accordance with those prices or rates, if the same are ascertainable by or to the satisfaction of the Treasurer ;

(c) where a limited interest in any property passes, the value of that interest only shall be reckoned ;

(d) if a policy of insurance of the life of a deceased person has been ceded by the deceased to or in favour of his wife or child or children, the value of that policy shall be its surrender value immediately prior to the death of the deceased.

## CHAPTER II.

### SPECIAL PROVISIONS RELATING TO DUTY UPON SHARES AND DEBENTURES.

10. (1) Shares and debentures in a company shall, for the purposes of this Act, be deemed to be property in this Colony, notwithstanding that the deceased holder of those shares or debentures was resident or domiciled outside the Colony at the date of his death.

Obligation on companies to collect duty payable upon estates of deceased shareholders and debenture holders of company.

(2) Every company shall, as soon as there shall come to its knowledge the death of any holder of its shares or debentures who died outside this Colony, transmit to the Treasurer a written statement showing the shares or debentures in that company held by the deceased at the date of his death, and the true value thereof, and that company shall within twelve months after the death of the deceased pay duty on those shares or debentures at the rate provided by this Chapter.

(3) Whenever the company shall satisfy the Treasurer, by production of an affidavit or solemn declaration of the deceased's legal representative or otherwise, that the whole estate of the deceased (including the shares or debentures aforesaid) in this Colony did not at his death exceed in the aggregate ten thousand pounds sterling, the duty payable upon those shares or debentures shall be two per cent. of the value thereof. If, after payment of duty on such shares or debentures, the executor of any foreign estate shall lodge with the Treasurer satisfactory evidence that the net value of the estate in this Colony was of a less value than two thousand pounds, the Treasurer shall refund the duty upon the value of any shares or debentures which may have been so paid.

(4) Whenever a company cannot so satisfy the Treasurer, or if the value of the whole of the estate of the deceased in this Colony exceeds ten thousand pounds at the time of his death, duty shall be paid by the company, at the rate applicable to the value of the deceased's estate in this Colony, in accordance with the Schedule to this Act.

In order that the amount of duty may be assessed, the legal representative of the deceased may render to the Treasurer an account, verified by oath, of the whole of the deceased's estate in this Colony. If no such account be rendered, or an account with which the Treasurer is not satisfied be rendered, he shall assess the amount of duty payable and duty shall be paid on the amount assessed by him, subject to the rights given under section sixteen. In such an account no debts or obligations of the deceased shall be deducted except those which are due from his estate in this Colony.

(5) Until payment is made by the company of the duty or satisfactory security has been lodged with the Treasurer for payment thereof, the company shall not permit the transfer in its registers, whether those registers be kept within or outside this Colony, of any shares or debentures registered in the name of a deceased person at the date of his death, except in the case of shares or debentures in respect of which the Treasurer has certified his satisfaction that, though still registered in the name of the deceased at that date, they had been bona fide sold or disposed of by him.

(6) Nothing in this section contained shall be deemed to impose any obligation on a company in respect of share warrants or debenture warrants issued to bearer.

Special arrangements with foreign companies whose proportion of business transacted in this Colony is inappreciable in proportion to entire business.

11. (1) If any company whose registered office is outside this Colony satisfies the Treasurer that the larger proportion of its business is transacted or carried on outside this Colony and produces satisfactory evidence to him as to the proportion of its business which is transacted or carried on in this Colony, the Treasurer may from time to time fix a percentage representing, for a period named by him, the proportion of the business carried on or transacted by that company in this Colony. During that period the total amount of duty payable on shares and debentures in that company shall be reduced *pro rata* to correspond with the proportion of the company's business which is carried on in this Colony.

(2) If the Treasurer is satisfied that an inappreciable proportion of the company's business, or only a branch thereof is, or merely matters incidental thereto are, carried on in this Colony, he may, by certificate under his hand, exempt the company for such time as he may think fit from the obligations of this Chapter; but nothing in this sub-section contained shall be construed as exempting any other person liable for duty from the liability to pay the same or interest or penalties due in respect thereof.

Remedies of company against person who would otherwise have been liable for payment of duty.

12. (1) Every company which has paid duty under this Chapter shall have the right to recover the amount thereof from the estate which would otherwise have been liable for payment of the duty, and with interest at the rate of six per cent. per annum if the amount of duty paid by the company be not repaid within one month after its payment by the company.

(2) That amount and interest may be recovered

(a) by action in any competent court; or

(b) by way of set off against any moneys due to the estate liable for the duty, whether as dividends or bonus upon shares, or interest upon debentures, or otherwise ; and every such company shall have a lien for the said amount and interest upon the shares or debentures in respect of which the duty was paid.

(3) Any receipt or certificate given by the Treasurer for duty paid by a company in respect of its shares or debentures shall be conclusive evidence in all courts and places of the payment by the company of the amount mentioned in that certificate or receipt.

(4) If any company make default in paying to the Treasurer any duty which, under this Chapter, it is liable to pay, it shall be liable to pay interest on the amount unpaid at the rate of twelve per cent. per annum together with any costs which the Treasurer may have incurred in recovering that amount from any other person.

13. (1) Every company shall, within three months after the coming into operation of this Act, transmit to the Treasurer a return showing the names and addresses of the persons who, according to its registers, were, on the thirtieth day of June 1909, shareholders or debenture holders of the company.

Company to transmit to Treasurer certain returns.

(2) Every company shall, before the thirty-first day of July 1910, and before that day in every year thereafter, transmit to the Treasurer a return showing the names and addresses of persons who, according to its registers, have, by reason of death, ceased to be shareholders or debenture holders of the company since the date when the last return was transmitted under this section.

14. In the event of any default by a company in complying with any requirement of this Chapter every director, manager, or other authorized representative of the company in this Colony shall be liable to a penalty of one pound for every day during which the default continues, without prejudice to any right of the Treasurer to recover any amount from the company under any other section.

Officers of company liable to penalties for default by company.

### CHAPTER III.

#### MISCELLANEOUS.

15. (1) The Governor-in-Council may from time to time make, alter, or rescind regulations for the better carrying out of the objects and purposes of this Act and in particular for the valuation of usufructuary or other limited interests in property.

Power to make regulations.

(2) All such regulations and any alteration or rescission thereof shall be of force and effect on publication in the *Gazette*.

(3) All such regulations and any alteration or rescission thereof shall be laid on the tables of Parliament within seven days after such publication if Parliament be then in Session, or, if it be not then in Session, within seven days after the commencement of its next ensuing Session.

Arbitration.

16. (1) Any person aggrieved by any decision or requirement of the Treasurer or the Master under this Act may demand that the matter be submitted to and decided by arbitrators in manner provided by the Arbitration Ordinance 1904, and such arbitrators may decide all questions of fact necessary for determining the proper amount of duty (if any) payable.

(2) The reasonable expenses of such arbitration shall, if the amount on which the duty is payable, as decided by the arbitrators, exceeds one-third\* the valuation made by the executor, be paid by him, and shall be added to and be recoverable as part of the duty, but otherwise such expenses shall be borne and paid by the Treasurer.

General provisions as to recovery of duty.

17. (1) All duty, interest, penalties, and any sum due to the Treasurer under this Act shall be a debt due to His Majesty in his Colonial Government and may be recovered by action in any competent court, notwithstanding that any other method of recovery is provided by this Act.

(2) Any such action shall be taken in the name of the Treasurer and may be taken against any person liable notwithstanding that the obligation to pay the amount of duty is imposed on any other person by this Act.

Penalties

18. (1) Any person who makes or causes to be made, or aids or abets in making, or incites any person to make, any fraudulent or false statement or representation, with intent that payment of duty or portion of duty be evaded by himself or any other person, shall be liable on conviction to a fine not exceeding five hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding two years, or to both such fine and imprisonment.

(2) Any person who

(a) makes default in rendering within the time prescribed any account or statement which such person is required to render;

(b) makes default in complying, within the time prescribed, with any requirement of this Act for which no specific penalty is provided;

shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds.

Exemptions from duty.

19. (1) Books, pictures, manuscripts, objects of curiosity, art, or antiquity, or similar objects bequeathed or donated to any public museum or institution in this Colony for preservation and not for sale or disposal, and property bequeathed or donated to any university or educational or public institution in this Colony, or exclusively for uses deemed by the Treasurer to be public, charitable, or religious uses in this Colony, shall be exempt from duty, provided that the objects bequeathed or donated and the terms of the bequest or donation be specifically stated.

(2) Duty shall not be chargeable in respect of any estate if the deceased has, within five years immediately prior to his death, donated, or has, by his will, bequeathed, not less than twenty-five

\* The word "by" appears to have been inadvertently omitted immediately before the word "one-third".

per cent. of the net value of his estate at the time of his death exclusively for uses deemed by the Treasurer, after the deceased's death, to be public uses in this Colony.

(3) Duty shall not be chargeable in respect of any pension granted under Ordinance No. 30 of 1906, Act No. 19 of 1908, or Act No. 20 of 1908, or any amendment of those laws, to the widow or child of any person.

20. Whenever duty is assessed upon property mentioned in paragraphs (e) and (f) of section four and in the circumstances described in those paragraphs transfer duty was, in accordance with law, paid, the amount of that duty shall be deducted from the duty payable under this Act in respect of that property.

\*21. The provisions of this Act may be applied by the Treasurer for the purpose of recovering any estate duty payable under Law No. 15 of 1899 and unpaid at the date of the coming into operation of this Act, but nothing in this section contained shall be construed as increasing the amount of duty payable under that law and unpaid at that date.

22. This Act may be cited for all purposes as the Estate Duty Act 1909 and shall come into operation as from the first day of July 1909.

Remission of duty.

Application of provisions of this Act to recovery of duty payable under Law No. 15 of 1899.

Title and date of operation of Act.

#### SCHEDULE.

Where the net value of the Estate	Duty shall be at the rate undermentioned.
Does not exceed £2,000	Exempt.
Exceeds £2,000, does not exceed £3,000	One and a quarter per cent.
Exceeds £3,000, does not exceed £5,000	Two per cent.
Exceeds £5,000, does not exceed £10,000	Three per cent.
Exceeds £10,000, does not exceed £20,000	Four per cent.
Exceeds £20,000, does not exceed £40,000	Five per cent.
Exceeds £40,000, does not exceed £70,000	Six per cent.
Exceeds £70,000, does not exceed £100,000	Seven per cent.
Exceeds £100,000, does not exceed £150,000	Eight per cent.
Exceeds £150,000, does not exceed £250,000	Nine per cent.
Exceeds £250,000	Ten per cent.

\* See Govt. Notice No. 1318 of 1909 (*Gazette*, 19/11/09).



Act No. 29 of 1909.]

[Promulgated 16th July, 1909.]

## \*AN ACT

TO AMEND ACT NO. 32 OF 1908.

(Assented to 16th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Principal law defined.

1. In this Act "principal law" shall mean Act No. 32 of 1908.

Amendment of section four of principal law.

2. *Repealed by Act 14, 1910, section one.*

Amendment of section six and partial repeal of Schedule of principal law.

3. (1) *Repealed by Act 14, 1910, section one.*

(2) The Schedule to the principal law in so far as it relates to fruiterers and vegetablemongers shall be and is hereby repealed.

Amendment of section eleven of principal law.

4. *Repealed by Act 14, 1910, section one.*

Restriction on opening hours.

5. Notwithstanding anything contained in this Act, the principal law or any other law, it shall not be lawful for any shop to be open between the hours of twelve o'clock midnight and six o'clock in the morning.

Butchers in Barberton may keep open during certain hours.

6. Notwithstanding anything contained in this Act, the principal law or any other law, it shall be lawful for the holder of a butcher's licence to keep open his butcher's shop within the municipality of Barberton on Sunday mornings between the hours of seven and nine o'clock.

Penalties.

7. Any penalties provided for a contravention of the principal law, may be imposed for a contravention of that law as amended by this Act.

Title and date of operation of Act.

8. This Act may be cited for all purposes as the Shop Hours Amendment Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.†

\* See Act No. 14 of 1910.

† The Act was first published in the *Gazette* on the 16th July, 1909.

Act No. 30 of 1909.]      [Promulgated 16th July, 1909.]

AN ACT

TO AMEND THE TOWNSHIPS AMENDMENT ACT 1908.

(Assented to 7th July, 1909.)

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BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. Section *four* of the Townships Amendment Act 1908 (hereinafter referred to as the "Amendment Act") shall be and is hereby repealed and the following new section shall be substituted therefor :—

*For text see Act 34, 1908, section 4.*

Repeal of section *four* of Act No. 34 of 1908 and substitution of new provision.

2. The expression "semi-Government township" when used in Chapters II and III of the Amendment Act, shall, in addition to the townships described in the definition of semi-Government township in section *eight* thereof, include the townships of Germiston, Georgetown, Germiston North, Germiston East, and Germiston West, legalized or proclaimed under Ordinance No. V (Private) of 1904.

Extension of definition of semi-Government township to certain townships legalised or proclaimed under Ordinance No. V (Private) 1904.

3. Sub-section (3) of section *twenty* of the Amendment Act shall be and is hereby amended by the addition of the following words at the end thereof :—

*For text see Act 34, 1908, section 20 (3).*

Amendment of sub-section (3) of section *twenty* of Act No. 34 of 1908.

4. Section *thirty-one* of the Amendment Act shall be and is hereby amended by the addition to the end of that section of the following words :—

*For text see Act 34, 1908, section 31.*

Amendment of section *thirty-one* of Act No. 34 of 1908.

5. (1) The registering officer mentioned in section *thirty-two* of the Amendment Act shall cause the ground comprising Stands Nos. 1148 to 1150 inclusive, together with so much of Locatie Street as may be necessary, to be surveyed into stands of suitable size and shape, and thereafter, having caused a valuation to be made of each such stand by a sworn appraiser, may sell under such an agreement of purchase as is described in the said section any of the new stands so created to any person who has been in occupation of any building thereon for a period of not less than five years. Every such agreement of purchase shall be concluded

Amendment of section *thirty-two* of Act No. 34 of 1908.

within three months after notice of the valuation of this land has been given by the said registering officer to the occupant thereof or to the purchaser of the building thereon.

The provisions of the second paragraph of section *thirty-three* of the Amendment Act shall apply in respect of the removal of buildings from the stand by a person who has not entered into any such agreement of purchase, the period of six months in that section mentioned being reckoned from the date of a notice by the registering officer to that person of the result of the survey aforesaid.

(2) The said registering officer may, in his discretion, if satisfied that such an occupant as is mentioned in the said section *thirty-two* or in this section purchased the building erected on the stand, permit that occupant to purchase the stand upon the terms mentioned in the said section *thirty-two*, notwithstanding that he has been in occupation of the stand for a shorter period than five years.

Amendment  
of section  
*forty-five* of  
Act No. 34  
of 1908.

6. (1) Section *forty-five* of the Amendment Act shall be and is hereby amended by the deletion of the word "therein" after "*bewaarplaatsen*" in the twentieth line of that section and the substitution for the word so deleted of the words "in the areas described in sub-sections (1) and (3)".

(2) Any person claiming to be the holder of a brickmaker's residential stand in the area known as the New Brickfields described in that section, may, if he satisfy the Mining Commissioner that he is the lawful holder of that stand, be entered in the Mining Commissioner's registers as the registered holder of that stand.

Amendment  
of section  
*forty-seven* of  
Act No. 34  
of 1908.

7. (1) Section *forty-seven* of the Amendment Act shall be and is hereby amended:—

"(a) by the deletion therefrom of the words 'the regulations promulgated by resolution of the First Volksraad No. 188, dated the seventeenth day of May, 1892, subject also to such other regulations not in conflict therewith' and by the substitution therefor of the words 'such regulations'";

(b) by the addition to the conditions set forth in the said section of the following new condition:—

*For text see Act 34, 1908, section 47 (4).*

(2) The persons holding licences to the said brickmaking sites and *bewaarplaatsen* shall, for the purpose of procuring the registration thereof into their names, make application to the Mining Commissioner, who shall deal with such applications and shall, when necessary, apply thereto the provisions *mutatis mutandis* of section *forty-five*; provided that no such application may be considered by the Mining Commissioner unless the same shall have been lodged in his office prior to the thirty-first day of March, 1910.

Amendment  
of section  
*fifty* of Act  
No. 34 of  
1908.

8. "Twelve months" shall be substituted for the period of six months mentioned in section *fifty* of the Amendment Act.

9. Section *fifty-five* of the Amendment Act shall be and is hereby amended by the deletion from sub-section (9) thereof of all words after the words "respective districts" to the end of that sub-section and by the addition to the said section of the following new sub-section :—

Amendment of section *fifty-five* of Act No. 34 of 1908.

*For text see Act 34, 1908, section 55 (11).*

10. Section *sixty* of the Amendment Act shall be and is hereby amended :—

Amendment of section *sixty* of Act No. 34 of 1908.

(a) by the deletion from sub-section (1) thereof of the words "from *voorkeurrecht* or leasehold";

(b) by the deletion of sub-section (3) thereof and the substitution of the following new sub-section :—

*For text see Act 34, 1908, section 60 (3).*

(c) by the deletion of sub-section (5) thereof and the substitution therefor of the following new sub-section :—

*For text see Act 34, 1908, section 60 (5).*

11. The Governor may appoint an officer to be styled the Assistant Rand Townships Registrar, who shall, subject to any regulations in force for the administration of the Rand Township Registration Office, have authority to do any act or thing which may be lawfully done by the Rand Townships Registrar.

Appointment of Assistant Rand Townships Registrar.

12. The Governor may from time to time by proclamation in the *Gazette* alter any of the forms set forth in the Third to the Twelfth Schedules inclusive of the Amendment Act; provided the alteration be for the better carrying out of the objects and purposes of that Act or any amendment thereof and be not inconsistent therewith. Any form so altered shall be as valid as if it had been set forth as a Schedule to the Amendment Act.

Power to alter Schedules to Act No. 34 of 1908.

13. This Act may be cited for all purposes as the Townships Further Amendment Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Title and date of operation of Act.

\* The Act was first published in the *Gazette* on the 16th July, 1909.

Act No. 31 of 1909.]

[Promulgated 21st July, 1909.]

## AN ACT

TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE INCORPORATION, REGISTRATION, AND WINDING-UP OF COMPANIES AND OTHER ASSOCIATIONS.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

## PRELIMINARY.

Repeal of laws.

1. The laws and resolutions mentioned in the First Schedule to this Act shall be and are hereby repealed to the extent set forth in the third column of that Schedule, together with so much of any other law as is repugnant to or inconsistent with the provisions of this Act.

Interpretation of terms.

2. In this Act unless inconsistent with the context—
- “articles” shall mean the articles of association of a company as originally framed, or as altered by special resolution, and shall include, so far as they apply to a company, the regulations set forth in the Fourth Schedule to this Act ;
  - “books or papers” and “books and papers” shall include accounts, deeds, writings, and other documents ;
  - “commencement of this Act” shall mean the date on which this Act came into operation ;
  - “company” shall mean a limited or unlimited company which is incorporated and registered under Chapter I of this Act and shall include every company to which, by Chapter VI, this Act is expressed to apply ;
  - “debenture” shall include debenture stock ;
  - “director” shall include any person occupying the position of director or alternate director of a company, by whatever name he may be called ;
  - “existing company” shall mean a company formed and registered under the Limited Liability Companies Laws and appearing at the commencement of this Act in the books of the Registrar's office as still so registered ;
  - “extraordinary resolution” shall mean a resolution passed at a general meeting of a company in accordance with the provisions of sub-section (1) of section *sixty-seven* ;
  - “foreign company” shall mean a company or other association of persons which has for its objects the acquisition

- of gain by the company or association, or by the individual members thereof, and is registered or incorporated in a foreign country under the laws of that country ;
- “ foreign country ” shall mean any state, country, colony, or territory, other than this Colony, whether the same is or is not a British Possession or British Protectorate ;
- “ Governor ” shall mean the officer for the time being administering the government of this Colony, acting by and with the advice of the Executive Council thereof ;
- “ imprisonment ” shall mean imprisonment with or without hard labour, as any competent court which passes sentence may determine ;
- “ limited company ” shall mean a company having the liability of its members limited by the memorandum of association to the amount (if any) unpaid on the shares respectively held by them ;
- “ Limited Liability Companies Laws ” shall mean Law No. 5 of 1874 as amended, extended, or modified by the following laws, namely :—So much of the First Volksraad Resolution No. 58 of 1890 as confirms Executive Council Resolution No. 786 of 1889 ; Law No. 1 of 1891 ; Executive Council Resolution No. 897 of 1892 passed in pursuance of First Volksraad Resolution No. 1331 of 1892 ; Second Volksraad Resolution No. 856 of 1893 embodying and adopting an Executive Council Resolution noted and accepted by First Volksraad Resolution No. 1219 of 1893 ; Law No. 1 of 1894 ; and Ordinance No. 30 of 1904 ;
- “ Master ” shall mean the Master of the Supreme Court or any person lawfully acting in that capacity ;
- “ memorandum ” shall mean the memorandum of association of a company, as originally framed or as altered in pursuance of the provisions of this Act ;
- “ Minister ” shall mean the Attorney-General or any other member of the Executive Council to whom is assigned from time to time by the Governor the ministerial responsibility for the office of the Registrar of Companies ;
- “ prescribed fee ” shall mean the fee mentioned in the Second Schedule to this Act, or in that Schedule as altered under the powers of this Act, as the fee payable in respect of any particular matter ;
- “ prescribed form ” shall mean a form set forth in the Third Schedule to this Act or any form added to or altered in that Schedule under the powers of this Act ;
- “ private company ” shall mean a company which by its articles—
- (a) restricts the right to transfer its shares ; and
  - (b) limits the number of its members (exclusive of persons who are in the employ of the company) to a number not exceeding fifty ; and
  - (c) prohibits any invitation to the public to subscribe for any of its shares or debentures ;

where two or more persons hold one or more shares in a company jointly, they shall be deemed for the purposes of paragraph (b) of this definition to be one member ;

“prospectus” shall mean any prospectus, notice, circular, or advertisement, inviting the public to subscribe for or purchase any of the shares or debentures of a company, or any direct or indirect invitation to the public to so subscribe or purchase ;

“Registrar” shall mean the Registrar of Companies, or any person lawfully acting in that capacity ;

“share” shall mean a share in the share capital of a company, and shall include stock, except where a distinction between stock and shares is expressed or implied ;

“special resolution” shall mean a resolution passed at a general meeting of a company in manner provided by sub-section (2) of section *sixty-seven* ;

“Table A” shall mean the table of regulations set forth in the Fourth Schedule to this Act ;

“the Court” shall mean the Supreme Court or any judge thereof, and whenever a matter in relation to which this expression is used is within the jurisdiction of the Witwatersrand High Court or a Circuit Court, shall include any of those courts ;

“unlimited company” shall mean a company which has no limit on the liability of its members.

3. This Act is divided into eight chapters relating to the following matters respectively :—

Chapter I—Constitution and Incorporation.

Chapter II—Distribution and Reduction of Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.

Chapter III—Management and Administration.

Chapter IV—Winding-up.

Chapter V—Foreign Companies.

Chapter VI—Application of Act

Chapter VII—Winding-up of Unregistered Companies.

Chapter VIII—Miscellaneous Provisions.

## CHAPTER I.

### CONSTITUTION AND INCORPORATION.

#### PROHIBITION OF LARGE PARTNERSHIPS.

4. (1) From and after the commencement of this Act no company, association, syndicate, or partnership consisting of more than twenty persons shall be formed in this Colony for the purpose of carrying on any business that has for its object the acquisition of gain by the company, association, syndicate, or partnership, or by the individual members thereof, unless it is registered as a company under this Act, or is formed in pursuance of some other law of this Colony, or of Letters Patent, or Royal Charter.

Division  
of Act.

Prohibition  
of trading  
associations or  
partnerships  
exceeding  
twenty  
members.

## MEMORANDUM OF ASSOCIATION.

5) Any seven or more persons (or, where the company to be formed will be a private company, any two or more persons) associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability (that is to say), either—

Mode of forming company.

- (i) a company having the liability of its members limited by the memorandum to the amount (if any) unpaid on the shares respectively held by them ; or
- (ii) a company not having any limit on the liability of its members.

6. In the case of a limited company :

(1) The memorandum shall state—

- (i) the name of the company, with " Limited " as the last word in its name ;
- (ii) the place in this Colony in which the registered office of the company is to be situate ;
- (iii) the objects of the company ;
- (iv) that the liability of the members is limited ;
- (v) the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount.

Memorandum of association of company limited by shares.

(2) No subscriber of the memorandum may take less than one share.

(3) Each subscriber shall write opposite to his name the number of shares he takes.

7. In the case of an unlimited company :

(1) The memorandum shall state—

- (i) the name of the company ;
- (ii) the place in this Colony in which the registered office of the company is to be situate ;
- (iii) the objects of the company.

(2) If the company has a share capital—

- (i) no subscriber of the memorandum may take less than one share ;
- (ii) each subscriber shall write opposite to his name the number of shares he takes.

Memorandum of unlimited company.

8. The memorandum shall be signed by each subscriber in the presence of at least one witness who shall attest his signature, and shall, in attesting, state his occupation and address.

Signature of memorandum of association.

9. A company may not alter the conditions contained in its memorandum except in the cases, and in the mode, and to the extent for which express provision is made in this Act.

Restriction on alteration of memorandum of association.

10. (1) A company may not be registered by a name identical with that by which a company in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except where the company in existence is in the course of being dissolved and signifies its consent in such manner as the Registrar requires.

Name of company and change of name.



(2) A company may not be registered by a name calculated to cause annoyance or offence to any person or by a name suggestive of blasphemy or indecency.

(3) A company may not, without the consent of the Governor, be registered by a name which includes the words "Imperial", "Royal", "Crown", "Empire", "Government", or any other word which imports or suggests that it enjoys the patronage of His Majesty, or of the Governor, or of the Imperial or Colonial Government, but nothing in this sub-section contained shall be construed as preventing the name held by an existing company at the commencement of this Act from being registered as the name of that company.

(4) If a company, through inadvertence or otherwise, is registered in conflict with the provisions of sub-section (1) or sub-section (2) or sub-section (3) the company may, in the circumstances described in sub-section (1), with the sanction of the Registrar, change its name, and shall, in the circumstances described in sub-section (2) or sub-section (3), change its name.

(5) Any company may, by special resolution and with the approval in writing of the Minister change its name.

(6) Where a company changes its name, the Registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case.

(7) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

11. (1) Subject to the provisions of this section a company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it—

(a) to carry on its business more economically or more efficiently; or

(b) to attain its main purpose by new or improved means; or

(c) to enlarge or change the local area of its operations; or

(d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or

(e) to restrict or abandon any of the objects specified in the memorandum.

(2) The alteration shall not take effect until and except in so far as it is confirmed on petition by the Court.

(3) Before confirming the alteration the Court shall be satisfied—

(a) that sufficient notice has been given to every mortgagee and to every holder of debentures of the company, and to any person or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and

(b) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection

in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court ;

provided that the Court may, in the case of any person or class of persons, for special reasons, dispense with the notice required by this section.

(4) The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper.

(5) The Court shall, in exercising its discretion under this section, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissatisfied members ; and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement ; provided that no part of the capital of the company may be expended in any such purchase.

(6) A certified copy of the order confirming the alteration, together with a copy of the memorandum as altered, shall within fifteen days from the date of the order, be delivered by the company to the Registrar, and he shall register the same, and shall certify the registration under his hand, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum so altered shall be the memorandum of the company.

The Court may by order at any time extend the time for the delivery of documents to the Registrar under this section for such period as the Court may think proper.

(7) If a company makes default in delivering to the Registrar any document required by this section to be delivered to him, the company shall be liable to a fine not exceeding ten pounds for every day during which it is in default.

#### ARTICLES OF ASSOCIATION.

12. (1) There may, in the case of a limited company, and there shall in the case of an unlimited company, be registered with the memorandum, articles of association prescribing regulations for the company.

Registration of articles of association.

(2) Articles of association may adopt all or any of the regulations contained in Table A.

(3) If an unlimited company has a share capital, the articles shall state the amount of share capital with which the company proposes to be registered.

(4) If an unlimited company has not a share capital, the articles shall state the number of members with which the company proposes to be registered.

13. In the case of a limited company registered after the commencement of this Act, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or

Application of Table A.

modify the regulations in Table A, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

Form and signature of articles.

14. Articles shall—

(a) be divided into paragraphs numbered consecutively ;

(b) be signed by each subscriber of the memorandum in the presence of at least one witness, who shall attest the signature, and shall, in attesting, state his occupation and address.

Alteration of articles by special resolution.

15. Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles ; and any alteration or addition so made shall be as valid as if originally contained in the articles, and be subject in like manner to alteration by special resolution.

#### GENERAL PROVISIONS.

Effect of memorandum and articles.

16. (1) The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by each member, and contained covenants on the part of each member, his heirs and legal representatives, to observe all the provisions of the memorandum and of the articles, subject to the provisions of this Act.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

Registration of memorandum and articles.

17. The memorandum and the articles (if any) together with a copy thereof certified by a notary public, or by two directors on oath, as a true copy, shall be transmitted or delivered to the Registrar. Upon payment to him of the prescribed fees the Registrar shall, if the memorandum and the articles (if any) are in accordance with this Act or any amendment thereof, register the same by filing the certified copy, and shall return to the company the original memorandum and articles (if any) with the date of registration endorsed thereon.

Effect of registration.

18. (1) Upon the registration of the memorandum of a company the Registrar shall certify under his hand that the company is incorporated, and, in the case of a limited company, that the company is limited.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

Conclusiveness of certificate of incorporation.

19. (1) A certificate of incorporation given by the Registrar in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto, have been complied with, and that the association is a company authorized to be registered and duly registered under this Act.

(2) An affidavit or other solemn declaration made by an attorney of the Supreme Court engaged in the formation of a company, or by a person named in the articles as a director or secretary of the company, of compliance with all or any of the said requirements shall be produced to the Registrar, who may accept such affidavit or declaration as sufficient evidence of compliance.

20. (1) Every company shall send to every member, at his request, on payment of two shillings and sixpence or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any) or shall afford to every member or to his duly authorized agent adequate facilities for making a copy of the memorandum and of the articles (if any).

Copies of memorandum and articles to be given to members.

(2) If a company makes default in complying with the requirements of this section, it shall be liable for each offence to a fine not exceeding one pound.

#### ASSOCIATIONS NOT FOR PROFIT.

21. (1) Where it is proved to the satisfaction of the Minister that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity, or any other useful object, and intends to apply its profits (if any), or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Minister may, by licence under his hand, direct that the association be registered with limited liability, without the addition of the word "Limited" to its name, and the association may be registered accordingly.

Special provisions as to associations formed for purpose not of gain.

(2) A licence by the Minister under this section may be granted on such conditions and subject to such regulations as he may think fit, and those conditions and regulations shall be binding upon the association, and shall, if the Minister so direct, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall upon registration enjoy all the privileges of limited companies and be subject to all their obligations, except those of using the word "Limited" as any part of its name, and of publishing its name, and of sending lists of its members, directors, and managers to the Registrar.

(4) A licence under this section may at any time be revoked by the Minister, and upon revocation the Registrar shall enter the word "Limited" at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section :

Provided that before a licence is so revoked the Minister shall give to the association notice in writing of his intention, and shall afford the association an opportunity of being heard in opposition to the revocation.

(5) Notwithstanding the repeal by this Act of the Societies and Associations Incorporation Ordinance 1903, the provisions of the said Ordinance shall continue to apply to every society or association which has been registered thereunder ; provided that any such society or association may, on complying with the provisions of this Chapter, become registered as a company.

## CHAPTER II.

DISTRIBUTION AND REDUCTION OF SHARE CAPITAL,  
REGISTRATION OF UNLIMITED COMPANY AS  
LIMITED, AND UNLIMITED LIABILITY OF  
DIRECTORS.

## DISTRIBUTION OF SHARE CAPITAL.

Nature of  
shares.

22. (1) The shares or other interest of any member in a company shall be movable property, transferable in manner provided by the articles of the company.

(2) Each share in a company having a share capital shall be distinguished by an appropriate number.

Certificate  
of shares or  
stock.

23. (1) A certificate under the hands of two directors and the secretary of the company, or, if there be only one director under the hand of that director and of the secretary, specifying any shares or stock held by any member, shall be prima facie evidence of the title of the member to the shares or stock.

(2) Every certificate of vendors', promoters', founders' or management shares in a company shall, for a period of six months immediately succeeding the registration of the company, be distinguished as such by having the words "vendors' shares" "promoters' shares" "founders' shares" or "management shares" (as the case may be) conspicuously printed on the face of the certificate.

Definition of  
"member".

24. (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and upon its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

Register of  
members.

25. (1) Every company shall keep in one or more books a register of its members, and enter therein the following particulars:—

- (i) The names and addresses of the members, and in the case of a company having a share capital, a statement of the shares held by each member, distinguishing each share by its number and by its class or kind, and of the amount paid or agreed to be considered as paid on the shares of each member;
- (ii) the date at which each person was entered in the register as a member;
- (iii) the date at which any person ceased to be a member.

(2) If a company fails to comply with this section, it shall be liable to a fine not exceeding five pounds for every day during which the default continues; and every director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

Annual list of  
members and  
summary.

26. (1) Every company having a share capital shall once at least in every year make a list of all persons who, on the fourteenth day after the first or only ordinary general meeting in the year,

are members of the company, and of all persons who, holding shares not fully paid up, ceased to be members since the date of the last return, or (in the case of the first return) of the incorporation of the company.

(2) The list shall state the names and addresses of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return, or (in the case of a first return) of the incorporation of the company, by persons who are still members and who have ceased to be members respectively and the dates of registration of the transfers, and shall contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars:—

- (a) the amount of the share capital of the company, and the number of the shares into which it is divided ;
- (b) the number of shares taken from the commencement of the company up to the date of the return ;
- (c) the amount called up on each share ;
- (d) the total amount of calls received ;
- (e) the total amount of calls unpaid ;
- (f) the total amount of the sums (if any) paid by way of commission in respect of any shares or debentures, or allowed by way of discount in respect of any debentures, since the date of the last return ;
- (g) the total number of shares forfeited ;
- (h) the total amount of shares or stock for which share warrants are outstanding at the date of the return ;
- (i) the total amount of share warrants issued and surrendered respectively since the date of the last return ;
- (j) the number of shares or amount of stock comprised in each share warrant ;
- (k) the names and addresses of the persons who at the date of the return are the directors of the company, or occupy the position of directors, by whatever name called ; and
- (l) the total amount of debt due from the company in respect of all mortgages and charges.

(3) The summary shall also (except where the company is a private company) include a statement, made up to such date as may be specified in the statement, in the form of a balance-sheet, audited by the company's auditors, and containing a summary of its share capital, its liabilities, and its assets, giving such particulars as will disclose the general nature of those liabilities and assets, and how the values of the fixed assets have been arrived at, but the balance-sheet need not include a statement of profit and loss.

(4) The said list and summary shall be contained in a separate part of the register of members, and shall be completed within seven days after the fourteenth day aforesaid, and the company shall forthwith transmit to the Registrar a copy signed by the manager or by the secretary of the company.

(5) The Registrar may from time to time require a company to transmit to him, in addition to the list and summary transmitted under sub-section (4), a list of the persons for the time being members of the company and of all persons who have ceased to be members since the date of the last return or, if no return has been made, since the date of the incorporation of the company.

(6) If a company makes default in complying with any requirements of this section, it shall be liable to a fine not exceeding five pounds for every day during which the default continues, and every director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

27. No notice of any trust, expressed, implied, or constructive, shall be entered on the register or be receivable by the Registrar.

28. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee and subject also to the law for the time being in force relating to stamp duty or duty upon estates of deceased persons :

Provided that no transfer of vendors', promoters', founders' or management shares in a company, other than an existing company, nor any contract to transfer or dispose of any such shares shall be valid if made before the expiration of six months immediately succeeding the registration of the company.

29. A transfer of the share or other interest of a deceased member of a company made by his legal representative shall, although the legal representative is not himself a member, be as valid as if he had been a member at the date of the execution of the instrument of transfer, subject always to the law for the time being in force relating to stamp duty or duty upon the estates of deceased persons.

30. (1) The register of members, commencing from the date of the registration of the company, shall be kept at the registered office of the company, and, except when closed under the provisions of this Act, shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member or his attorney gratis, and, except in the case of a private company, to the inspection of any other person on payment of two shillings and sixpence or such less sum as the company may prescribe, for each inspection.

(2) Any member and, except in the case of a private company, any other person may require the company to furnish him with extracts from such register, or from the list and summary required by this Act, on payment of one shilling or such less sum as the company may prescribe, for every hundred words or fractional part thereof required to be extracted, or the company shall afford to

Trusts not to be entered on register.

Registration of transfer at request of transferor.

Transfer by legal representative.

Inspection of register of members.

any member and, except in the case of a private company, to any other person or his duly authorized agent adequate facilities for making such extracts.

(3) If any inspection, extract, or facilities for making extracts, required under this section is refused, the company shall be liable for each refusal to a fine not exceeding two pounds and to a further fine not exceeding two pounds for every day during which the refusal continues and every director, manager, secretary or other officer of the company who knowingly authorizes or permits the refusal shall be liable to the like penalty; and the Court may by order compel an immediate inspection of the register or the furnishing of the extract or the affording of facilities for making the same.

31. A company may, upon giving notice by advertisement in the *Gazette* and a newspaper circulating in the district in which the registered office of the company is situate, close the register of members for any time or times not exceeding in the whole sixty days in each year.

Power to close register.

32. (1) If

(a) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or

(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

Remedy for improper entry or omission of entry in register.

the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

(2) The application may be made by motion or in such other manner as the Court may direct; and the Court may either refuse the application, or may order rectification of the register, and payment by the company, or by any director, manager, secretary, or other officer of the company, of any damages sustained by any party aggrieved.

(3) On any application under this section the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand; and generally may decide any question necessary or expedient to be decided for the rectification of the register.

(4) In the case of a company required by this Act to transmit a list of its members to the Registrar, the Court when making an order for the rectification of the register, shall by its order direct notice of the rectification to be given to the Registrar.

33. The register of members shall be prima facie evidence of any matters by this Act directed or authorized to be inserted therein.

Register to be evidence.

34. (1) A company having a share capital, may, if so authorized by its articles, cause to be kept in any foreign country a register of members resident in that foreign country (in this Act called a branch register).

Branch registers in foreign countries.



(2) The company shall give to the Registrar notice of the situation of the office where any branch register is kept, and of any change in its situation, and of the discontinuance of the office in the event of its being discontinued.

Regulations  
as to branch  
register.

35. (1) A branch register shall be deemed to be a part of the company's register of members (in this section called the principal register).

(2) It shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the advertisement before closing the register shall, for a reasonable time before the closing, be inserted in some newspaper circulating in the district wherein the branch register is kept.

(3) The company shall transmit to its registered office a copy of every entry in its branch register as soon as may be after the entry is made; and shall cause to be kept at its registered office, duly entered up from time to time, a duplicate of its branch register, and the duplicate shall, for all the purposes of this Act, be deemed to be part of the principal register.

(4) The company may discontinue to keep any branch register, and thereupon all entries in that register shall be transferred to some other branch register kept by the company in the same foreign country, or to the principal register.

(5) Subject to the provisions of this Act and of any law for the time being in force relating to stamp duty or to duty upon the estates of deceased persons, any company may, by its articles, make such provisions as it may think fit respecting the keeping of branch registers.

36. (1) A limited company if so authorized by its articles, may, with respect to any fully paid-up shares, or to stock, issue a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant, in this Act termed a share warrant.

(2) A share warrant shall entitle the bearer thereof to the shares or stock therein specified, and such shares or stock may be transferred by the delivery of the share warrant.

(3) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register the name of a bearer of a share warrant in respect of the shares of stock therein specified without the share warrant being surrendered and cancelled.

(4) The bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles; except that he shall not be qualified, in respect of the shares or stock specified in the warrant, for being a director or manager of the company, in cases where such a qualification is required by the articles.

Issue and  
effect of share  
warrants to  
bearer.

(5) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely:—

- (i) the fact of the issue of the warrant ;
- (ii) a statement of the shares or stock included in the warrant, distinguishing each share by its number ; and
- (iii) the date of the issue of the warrant.

(6) Until the warrant is surrendered, the said particulars shall be deemed to be the particulars required by this Act to be entered in the register of members ; and on the surrender, the date of the surrender shall be entered as if it were the date at which a person ceased to be a member.

37. (1) If any person—

- (i) with intent to defraud, forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any share warrant or coupon, or any document purporting to be a share warrant or coupon issued in pursuance of this Act ; or by means of any such forged or altered share warrant, coupon, or document, purporting as aforesaid demands or endeavours to obtain or receive any share or interest in any company, or to receive any dividend or money payable in respect thereof, knowing the share warrant, coupon, or document to be forged or altered ; or
- (ii) falsely and deceitfully personates any owner of any share or interest in any company, or of any share warrant or coupon issued in pursuance of this Act, and thereby obtains or endeavours to obtain any such share or interest or share warrant or coupon, or receives or endeavours to receive any money due to any such owner as if the offender were the true and lawful owner ;

he shall be guilty of an offence, and liable on conviction to imprisonment for a period not exceeding ten years.

(2) If any person without lawful authority or excuse (the proof whereof shall lie upon him), engraves or makes upon any plate, wood, stone, or other material any share warrant, or coupon, purporting to be a share warrant, or coupon, issued or made by any particular company in pursuance of this Act, or to be a blank share warrant or coupon so issued or made, or to be a part of such a share warrant or coupon, or uses any such plate, wood, stone, or other material for the making or printing of any such share warrant or coupon, or of any such blank share warrant or coupon, or any part thereof respectively, or knowingly has in his custody or possession any such plate, wood, stone, or other material he shall be guilty of an offence, and liable on conviction to imprisonment for a period not exceeding ten years.

38. A company, if so authorized by its articles, may do any one or more of the following things, namely:—

- (1) Make arrangements on the issue of shares for a difference between classes of shareholders in the amounts and times of payment of calls on their shares.

Forgery  
personation  
unlawfully  
engraving  
plates, etc.

Power of  
company to  
arrange for  
different  
amounts  
being paid on  
shares.

(2) Accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up and, if the whole amount unpaid on any shares be paid, issue those shares as fully paid up.

(3) Pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

Power of limited company to alter its share capital.

39. (1) A limited company, if so authorized by its articles, may alter the conditions of its memorandum as follows; (that is to say), it may

(a) increase its share capital by the issue of new shares of such amount as it thinks expedient;

(b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(c) convert all or any of its paid-up shares into stock, and reconvert such stock into paid-up shares of any denomination;

(d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;

(e) cancel shares which at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section with respect to sub-division of shares shall be exercised by special resolution.

(3) Where any alteration has been made under this section in the memorandum of a company every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

If a company makes default in complying with this provision it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made; and every director and officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

(4) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

Notice to Registrar of consolidation of capital conversion of shares into stock, etc.

40. Where a company having a share capital has consolidated and divided its share capital into shares of larger amount than its existing shares, or converted any of its shares into stock, or reconverted stock into shares, it shall give notice to the Registrar of the consolidation and division, conversion, or reconversion specifying the shares consolidated and divided, or converted, or the stock reconverted, and until such notice is given, the consolidation and division, conversion or reconversion shall not take effect.

Effect of conversion of shares into stock.

41. Where a company having a share capital has converted any of its shares into stock, and given notice of the conversion

to the Registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the share capital as is converted into stock; and the register of the members of the company, and the list of members to be transmitted to the Registrar, shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares hereinbefore required by this Act.

42. (1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has increased the number of members beyond the registered number, it shall give notice\* to the Registrar, in the case of an increase of share capital, within fifteen days after the passing, or in the case of a special resolution the confirmation of the resolution authorizing the increase, and in the case of an increase of members, within fifteen days after the increase was resolved upon or took place, notice of the increase of capital or members, and the Registrar shall record the increase, and the resolution shall not take effect until the increase is so recorded.

Notice of increase of share capital or of members.

(2) If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding five pounds for every day during which the default continues, and every director, manager, secretary or other officer of the company who knowingly or wilfully authorizes or permits the default shall be liable to the like penalty.

43. (1) A limited company may, by special resolution confirmed by an order of the court, modify the conditions contained in its memorandum so as to reorganize its share capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes:

Reorganization of share capital.

Provided that no preference or special privilege attaching to, or belonging to any class of shares shall be interfered with, except by a resolution passed by a majority in number of shareholders of that class holding three-fourths of the share capital of that class and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed, and every resolution so passed shall bind all the shareholders of the class.

(2) Where an order is made under this section, a certified copy thereof shall be lodged with the Registrar within seven days after the making of the order, or within such further time as the court may allow, and the resolution shall not take effect until such copy has been so lodged.

#### REDUCTION OF SHARE CAPITAL.

44. (1) Subject to confirmation by the court a limited company, if so authorized by its articles, may by special resolution reduce its share capital in any way, and in particular (without prejudice to the generality of the power hereby conferred) may

Special resolution for reduction of capital.

\* The word "notice" appears to have been inserted here in error, as the verb "give" has its objective later in the sub-section. Cf. also sec. 44 (1) of the English Companies (Consolidation) Act, 1908.

(a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up ; or

(b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets ; or

(c) either with or without extinguishing or reducing the liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company,

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) A special resolution under this section is in this Act called a resolution for reducing share capital.

45. Where a company has passed and confirmed a resolution for reducing share capital, it may apply to the court by petition for an order confirming the reduction.

46. On and from the confirmation by a company of a resolution for reducing share capital, or where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, then on and from the presentation of the petition for confirming the reduction, the company shall add to its name, until such date as the court may fix, the words "and reduced", as the last words in its name, and those words shall, until that date, be deemed to be part of the name of the company :

Provided that, where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the court may, if it thinks expedient, dispense altogether with the addition of the words "and reduced".

47. (1) Where the proposed reduction of share capital involves either the diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the court so directs, every creditor of the company who at the date fixed by the court is entitled to any debt or claim which, if that date were the commencement of the winding-up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

(2) The court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

(3) Where a creditor entered on the list, whose debt or claim is not discharged or determined, does not consent to the reduction, the court may, if it thinks fit, dispense with the consent of that creditor, on the company securing the payment of his debt or claim by appropriating, as the court may direct, the following amount (that is to say),

Application to Court for confirmation order.

Addition to name of company of "and reduced".

Objections by creditors, and settlement of list of objecting creditors.

(i) if the company admits the full amount of his debt or claim, or though not admitting it, is willing to provide for it, then the full amount of the debt or claim ;

(ii) if the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the court after the like inquiry and adjudication as if the company were being wound-up by the court.

48. The court, if satisfied, with respect to every creditor of the company who under this Act is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has been determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

Order, confirming reduction.

49. (1) The Registrar on production to him of an order of the court confirming the reduction of the share capital of a company, and the delivery to him of a copy of the order and of a minute (approved by the court), showing with respect to the share capital of the company, as altered by the order, the amount of such capital, the number of shares into which it is to be divided, the amount of each share, and the amount (if any) at the date of the registration deemed to be paid up on each share, shall register the order and minute.

Registration of order and minute of reduction.

(2) On the registration, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the court may direct.

(4) The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

50. (1) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be as valid and alterable as if it had been originally contained therein ; and shall be embodied in every copy of the memorandum issued after its registration.

Minute to form part of memorandum.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made, and every director, manager, secretary or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

51. A member of the company, past or present, shall not be liable, in respect of any share, to any call or contribution exceeding in amount the difference (if any) between the amount paid, or (as the case may be) the reduced amount (if any) which is to be deemed to have been paid, on the share and the amount of the share as fixed by the minute :

Liability of members in respect of reduced shares.

Provided that if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason

of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of the creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Act relating to winding-up by the court, to pay the amount of his debt or claim, then

(i) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound-up on the day before that registration; and,

(ii) if the company is wound-up, the court on the application of any such creditor, and proof of his ignorance as aforesaid may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding-up.

Nothing in this section shall affect the rights of the contributories among themselves.

Penalty on concealment of name of creditor.

52. If any director, manager, or officer of the company wilfully conceals the name of any creditor entitled to object to the reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor, or if any director, manager, secretary or other officer of the company aids or abets in or is privy to any such concealment or misrepresentation as aforesaid, every such director, manager, or officer shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred pounds, or to imprisonment without the option of a fine, for a period not exceeding twelve months or to both such fine and such imprisonment.

Publication of reasons for reduction.

53. In any case of reduction of capital, the court may require the company to publish as the court directs the reasons for reduction, or such other information in regard thereto as the court may think expedient with a view to give proper information to the public, and, if the court thinks fit, the causes which led to the reduction.

#### REGISTRATION OF UNLIMITED COMPANY AS LIMITED.

Registration of unlimited company as limited.

54. (1) Subject to the provisions of this section, any company registered as unlimited may register under this Act as limited, but such registration as a limited company shall not affect any debts, liabilities, obligations, or contracts, incurred or entered into by, to, with, or on behalf of, the company before the registration.

(2) On registration in pursuance of this section the Registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with which he was furnished on the occasion of the original registration of the company, but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Act.

55. An unlimited company having a share capital, may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things namely:—

(a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the amount by which the share capital is so increased shall be capable of being called up, except in the event and for the purposes of the company being wound up;

(b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

Power of unlimited company to provide for reserve share capital on re-registration.

#### RESERVE LIABILITY OF LIMITED COMPANY.

56. A limited company may, by special resolution, determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

Reserve liability of limited company.

#### UNLIMITED LIABILITY OF DIRECTORS.

57. (1) In a limited company the liability of the directors or managers, or of a managing director, may, if so provided by the memorandum, be unlimited.

Limited company may have directors with unlimited liability.

(2) In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company (if any) and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, managers, and secretary (if any) of the company, or one of them shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director, manager, or proposer makes default in adding such statement, or if any promoter, director, manager, or secretary makes default in giving such notice, he shall be liable to a fine not exceeding one hundred pounds, and shall also be liable for any damage which the person so elected or appointed may sustain by reason of the default, but the liability of the person elected or appointed shall not be affected by the default.

58. (1) A limited company, if so authorized by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors, or managers, or of any managing director.

Special resolution of limited company making liability of directors unlimited.

(2) Upon the confirmation of such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum; and a copy of the special resolution shall be embodied therein or annexed to every copy of the memorandum issued after the confirmation of the resolution.

(3) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made;



and every director, manager, secretary or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

### CHAPTER III.

#### MANAGEMENT AND ADMINISTRATION.

##### OFFICE AND NAME.

Registered  
office of  
company.

59. (1) Every company shall have a registered office in this Colony to which all communications and notices may be addressed.

(2) Notice of the situation of such registered office, and of any change therein, shall be given to the Registrar, who shall record the same. Until such notice is given the company shall not be deemed to have complied with this section: Provided that an existing company shall give notice to the Registrar, within three months after the commencement of this Act, of the situation of its registered office.

(3) If a company carries on business without complying with the requirements of this section, it shall be liable to a fine not exceeding five pounds for every day during which it so carries on business.

Publication of  
name by  
limited  
company.

60. (1) Every limited company

(a) shall paint or affix, and keep painted or affixed its name on the outside of every office or place in which its business is carried on in a conspicuous position, and in letters easily legible;

(b) shall have its name engraved in legible characters on its seal (if any);

(c) shall have its name mentioned in legible characters in all notices, advertisements, and other official publications of the company, and in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts, and letters of credit of the company.

(2) If a limited company does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a fine not exceeding five pounds for not so painting or affixing its name, and for every day during which its name is not so kept painted or affixed, and every director, manager, secretary or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

(3) If any director, manager, secretary or other officer of a limited company or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement, or other official publication of the company or signs or authorizes to be signed on behalf of the company any bill of exchange, promissory note,

endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt, or letter of credit of the company, wherein its name is not mentioned in manner aforesaid, he shall be liable to a fine not exceeding fifty pounds, and shall further be liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods, for the amount thereof, unless the same is duly paid by the company.

#### MEETINGS AND PROCEEDINGS.

61. (1) A general meeting of every company shall be held at least in every calendar year, and not more than fifteen months after the holding of the last preceding general meeting; and, if not so held, the company and every director, manager, secretary, and other officer of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds.

Annual  
general  
meeting

(2) When default has been made in holding a meeting of the company in accordance with this section, the court may on the application of any member of the company call or direct the calling of a general meeting of the company.

62. (1) Every limited company shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company which shall be called the statutory meeting.

First  
statutory  
meeting of  
company.

(2) The directors shall, at least seven days, before the day on which the meeting is held, transmit a report (in this Act called "the statutory report") to every member of the company and to every other person entitled under this Act to receive it.

(3) The statutory report shall be certified by not less than two directors of the company, or, where there are less than two directors, by the sole director and manager, and shall state

(a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;

(b) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid;

(c) an abstract of the receipts of the company on account of its capital, whether from shares or debentures, and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company;

(d) the names, addresses, and occupations of the directors, auditors, managers (if any), and secretary of the company; and

(e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(4) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, be certified as correct by the auditors of the company.

(5) The directors shall cause a copy of the statutory report, certified as by this section required, to be lodged with the Registrar forthwith after the transmission thereof, to the members of the company.

(6) The directors shall cause a list showing the names and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles or with section *sixty-five* may be passed.

(8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before, at, or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(9) If a petition is presented to the court in manner provided by Chapter IV for winding-up the company on the ground of default in lodging the statutory report or in holding the statutory meeting, the court may, instead of directing that the company be wound up, give directions for the statutory report to be lodged or for a meeting to be held, or make such other order as may be just.

(10) The provisions of this section as to the transmission and lodging of the statutory report shall not apply in the case of a private company.

Extra-ordinary general meeting.

63. (1) Notwithstanding anything in the articles of a company, the directors of a company shall, on the requisition of the holders of not less than one-tenth of the issued share capital of the company upon which all calls or other sums then due have been paid, forthwith proceed to convene an extraordinary general meeting of the company.

(2) The requisition shall state the objects of the meeting, and shall be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If in the case of a meeting at which no extraordinary or special resolution is to be proposed the directors of the company do not proceed to cause such a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists, or a majority of them in value, may themselves convene the meeting, but any meeting so convened shall not be held after three months from the date of the deposit.

(4) If at any such meeting an extraordinary or special resolution is to be proposed by one of the requisitionists, the period of notice of the meeting shall be given in accordance with the provisions of section *sixty-five*, but the meeting so convened shall not be held later than four months from the date of the deposit.

(5) If at any such meeting a resolution requiring confirmation at another meeting is passed, the directors shall forthwith convene a further extraordinary general meeting for the purpose of considering the resolution, and, if thought fit, of confirming it as a special resolution and, if the directors do not convene the meeting within seven days from the date of the passing of the first resolution, the requisitionists, or a majority of them in value, may themselves convene the meeting.

(6) Save as in sub-section (4) is provided, any meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

64. Save as is otherwise provided by this Act, the manner, time, and place of holding general meetings of a company (including the statutory meeting) and the regulation of proceedings at general meetings of a company shall be as provided by the articles.

65. (1) Anything to the contrary notwithstanding in the articles, no extraordinary or special resolution of a company, nor any act or thing done by a company or its directors requiring under this Act the sanction of an extraordinary or special resolution, shall be valid unless notice, as in this section is prescribed, be given of the meeting at which the extraordinary or special resolution or act or thing requiring the sanction of such a resolution is to be proposed.

(2) If the registered address of any shareholder is outside this Colony but in South Africa, notice of the meeting shall be published three weeks at least before the date fixed for the meeting in the *Gazette* and in a leading daily newspaper published in Capetown. If the registered address of any shareholder is outside South Africa, notice of the meeting shall be published two months at least before the date fixed for the meeting in a leading daily newspaper published in London. If the registered addresses of any shareholders are in one case within and in another case outside South Africa, the notice shall be published in all the publications herein described two months at least before the date fixed for the meeting.

(3) Nothing in this section shall be construed as preventing a company giving such a notice, in lieu of so publishing it, by prepaid registered post addressed to each member at his registered address.

(4) For the purposes of this section—

“registered address” shall mean the address given by the shareholder and registered in the books of the company as the address to which notices of meetings may be sent to him, but shall in no case (except where the shareholder is a director, manager, secretary, or officer of the company) be the address of the registered office of the company, or of any branch register hereinbefore described; and

Provisions as to meetings and votes.

Notices to foreign shareholders in case of matters requiring the sanction of an extraordinary or special resolution.

“South Africa” shall include any part of Africa south of the Equator.

(5) Nothing in this section contained shall apply to a private company.

Representation of companies at meetings of other companies of which they are members.

66. A company which is a member of another company may, by resolution of the directors, authorize any of its officers or any other person to act as its representative at any meeting of that other company, and the person so authorized shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company.

Extraordinary and special resolutions.

67. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than two-thirds of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a general meeting of which notice, specifying the intention to propose the resolution, and the general nature thereof, has been duly given, and at which members entitled in the aggregate to not less than one-fourth of the total votes of the company are present in person or by proxy (where proxies are allowed) :

Provided that if less than one-fourth of the total votes be present at the meeting, it shall stand adjourned to the same day in the following week, or, if that day be a public holiday, to the next succeeding day other than a public holiday. At the adjourned meeting the members present in person or by proxy (where proxies are allowed) may deal with the business for which the original meeting was convened, and a resolution passed by not less than two-thirds of such members shall be deemed to be an extraordinary resolution, notwithstanding that less than one-fourth of the total votes aforesaid be present.

(2) A resolution shall be a special resolution when it has been

(a) passed in manner required for the passing of an extraordinary resolution and

(b) confirmed by a majority of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a subsequent general meeting, of which notice has been duly given and held after an interval of not less than fourteen days, nor more than one month, from the date of the first meeting.

(3) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting, at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a poll may be demanded by a person or persons for the time entitled according to the articles to vote, and holding not less than one-sixtieth of the share capital represented at the meeting.

(5) When a poll is demanded in accordance with this section, in computing the majority on the poll regard shall be had to the number of votes to which each member is entitled by the articles of the company.

(6) For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting shall be deemed to be duly held when the notice is given and the meeting held in manner provided by the articles, subject always, in the case of notice, to the provisions of section *sixty-five*.

68. (1) A copy of every special and extraordinary resolution shall within fifteen days from the confirmation of the special resolution, or from the passing of the extraordinary resolution (as the case may be), be transmitted to the Registrar, who shall record the same.

Registration of copies of special and extraordinary resolutions.

(2) Where articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the confirmation of the resolution.

(3) Where articles have not been registered, a copy of every special resolution shall be transmitted to any member at his request, on payment of one shilling or such less sum as the company may direct.

(4) If the company makes default in transmitting the copy of a special or extraordinary resolution to the Registrar it shall be liable to a fine not exceeding two pounds for every day during which the default continues.

(5) If a company makes default in embodying or annexing to a copy of its articles or in transmitting to a member when required by this section a copy of a special resolution, it shall be liable to a fine not exceeding one pound for each copy in respect of which default was made.

(6) Every director, manager, secretary or other officer of the company who knowingly and wilfully authorizes or permits any default by the company in complying with the requirements of this section shall be liable to the like penalty as is imposed by this section on the company for that default.

69. (1) Every company shall cause minutes of all proceedings of general meetings and (where there are directors or managers) of its directors or managers to be entered in books kept for that purpose.

Minutes of proceedings of meetings and directors.

(2) Any such minute if purporting to be signed by the chairman of a meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Until the contrary is proved, every general meeting of the company or meeting of directors or managers in respect of proceedings whereof minutes have been so made shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had.

#### APPOINTMENT, QUALIFICATION, ETC., OF DIRECTORS.

70. (1) A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in any prospectus issued

Restrictions on appointment or advertisement of director.

by or on behalf of a company, or in relation to an intended company or in any statement in lieu of prospectus lodged by or on behalf of a company, unless, before the registration of the articles or the publication of the prospectus, or the lodging of the statement in lieu of prospectus (as the case may be), he has by himself or by his agent authorized in writing

(i) signed and lodged with the Registrar a consent in writing to act as such director; and

(ii) either signed the memorandum of association for a number of shares not less than his qualification (if any), or signed and lodged with the Registrar a contract in writing to take from the company and pay for his qualification shares (if any).

(2) On the application for registration of the memorandum and articles of a company the applicant shall deliver to the Registrar a list of the persons who have consented to be directors of the company, and if this list contains the name of any person who has not so consented the applicant, and every person who knowingly and wilfully authorized or permitted the insertion in the list of the name of a person who has not so consented, shall be liable to a fine not exceeding fifty pounds.

(3) This section shall not apply to a private company nor to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business.

Qualification of director.

71. (1) Without prejudice to the restrictions imposed by the last preceding section, it shall be the duty of every director who is by the articles required to hold a specified share qualification, and who is not already qualified to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles.

(2) The office of director of a company shall be vacated if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of such period or shorter time he ceases at any time to hold his qualification; and a person vacating office under this section shall be incapable of being reappointed director of the company until he has obtained his qualification.

(3) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding five pounds for every day between the expiration of the said period or shorter time and the last day on which it is proved that he acted as a director.

Validity of acts of director.

72. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

List of directors be sent to Registrar.

73. (1) Every company shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and send to the Registrar a copy thereof, and from time to time notify to the Registrar any change among its directors or managers.

(2) If default is made in compliance with this section, the company shall be liable to a fine not exceeding five pounds for every day during which the default continues; and every director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

#### CONTRACTS, ETC.

74. (1) Contracts on behalf of a company may be made as follows (that is to say):— Form of contracts.

(i) Any contract which if made between private persons would be by law required to be in writing, signed by the parties thereto or by their agents duly authorized in writing, may be made on behalf of the company in writing signed by any person duly authorized thereto in writing by two directors, acting *intra vires* or, if there be only one director, by that director, acting *intra vires*, and the contract may in the same manner be varied or discharged;

(ii) any contract which if made between private persons would by law be valid though made verbally only and not reduced to writing, may be made verbally on behalf of the company by any person acting under its authority, expressed or implied, and may in the same manner be varied or discharged.

(2) All contracts made in accordance with this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto, their heirs or legal representatives, as the case may be.

75. (1) A bill of exchange or promissory note shall be deemed to have been made, accepted, or endorsed on behalf of a company if made, accepted, or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority. Promissory notes and bills of exchange.

(2) All documents, other than the documents mentioned in this and the last preceding section, shall, if executed on behalf of a company, be signed as described in the last preceding section unless the articles otherwise provide.

76. A company may, by writing under the hands of two of its directors, or, if there be only one director, under the hand of that director and of the secretary, empower any person, either generally or in respect of any specified matters, as its agent, to execute deeds on its behalf in any foreign country; and every deed signed by such agent on behalf of the company, shall bind the company. Execution of deeds abroad.

77. (1) Any company which has a common seal and whose objects require or comprise the transaction of business in foreign countries may, if authorized by its articles, have for use in any foreign country an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of the foreign country where it is to be used. Power to companies to have an official seal for use in foreign countries.

(2) A company having such an official seal, may, by writing under its common seal, authorize any person appointed for the purpose in any foreign country, to affix the same to any deed or other document to which the company is party in that foreign country.



(3) The authority of any such agent shall, as between the company and any person dealing with the agent continue during the period (if any) mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(4) The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and the place of affixing the same.

(5) A deed or other document to which such an official seal is duly affixed shall bind the company.

#### PROSPECTUS.

78. (1) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorized in writing shall be lodged for registration with the Registrar on or before the date of the publication of the prospectus, and no such prospectus shall be issued until a copy thereof has been so lodged for registration.

(3) The Registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been lodged for registration, as required by this section.

(5) If a prospectus is issued without a copy thereof being so lodged, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding five pounds for every day from the date of the issue of the prospectus until a copy thereof is so lodged.

79. (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, shall state

(a) the contents of the memorandum, with the names, occupations, and addresses of the signatories, and the number of shares subscribed for by them respectively; and the number of vendors', promoters', founders', management, deferred, or other classes of shares (if any), and the nature and extent of the interest of the holders in the property and profits of the company; and

(b) the number of shares (if any) fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors; and

(c) the names, occupations, and addresses of the directors or proposed directors; and

(d) the minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment on each share; and in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two

Lodging of  
prospectus  
with  
Registrar.

Specific  
requirements  
as to particu-  
lars of  
prospectus.

preceding years, and the amount actually allotted, and the amount (if any) paid on the shares so allotted ; and

(e) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which such shares or debentures have been issued or are proposed or intended to be issued ; and

(f) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares, or debentures, to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor ; provided that where the vendors or any of them are a partnership the members of the partnership shall not be treated as separate vendors ; and

(g) the amount (if any) paid or payable as purchase money in cash, shares, or debentures, for any such property as aforesaid, specifying the amount (if any) payable for goodwill ; and

(h) the amount (if any) paid within the two preceding years, or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or the rate of any such commission ; provided that it shall not be necessary to state the commission payable to sub-underwriters ; and

(i) the amount or estimated amount of preliminary expenses ; and

(j) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment ; and

(k) the dates of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected ; provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of issue of the prospectus ; and

(l) the names and addresses of the auditors of the company ; and

(m) full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by the company, or where the interest of a director consists in being a member of a partnership, the nature and extent of the interest of the partnership, with a statement of all sums paid or agreed to be paid to him or to the partnership in cash or shares or otherwise by any

person, either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the partnership in connection with the promotion or formation of the company; and

(n) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred on the holders of the several classes of shares respectively.

(2) For the purposes of this section every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where

(a) the purchase money is not fully paid at the date of the publication of the prospectus; or

(b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or

(c) the contract depends for its validity or fulfilment on the result of that issue.

(3) Where any property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

(4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(5) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary to specify the contents of the memorandum or the signatories thereto, and the number of shares subscribed for by them.

(6) In the event of a failure to comply with any of the requirements of this section, a director or other person responsible for the prospectus shall be liable to a fine not exceeding five hundred pounds in addition to any liability incurred by him civilly for such failure but he shall not incur any liability, civil or criminal, by reason of such failure if he proves that

(a) as regards any matter not disclosed, he was not cognisant thereof; or

(b) the failure arose from an honest mistake of fact on his part;

provided that in the event of a failure to comply with the requirements contained in paragraph (m) of sub-section (1) of this section no director or other person shall incur any liability, civil or criminal, in respect of such failure unless it shall be proved that he had knowledge of the matters not disclosed.

(7) This section shall not apply to a circular or notice inviting existing members or debenture holders of the company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other

persons, but, save as aforesaid, this section shall apply to any prospectus issued on or with reference to the formation of a company or subsequently.

(8) The requirements of this section as to the memorandum, and the qualification, remuneration, and interest of directors, the names, occupations, and addresses of directors or proposed directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

(9) Nothing in this section shall limit or diminish any liability which any person may incur under this Act apart from this section, or under any other statute, or under the common law.

80. (1) A company which does not issue a prospectus on or with reference to its formation shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been lodged with the Registrar a statement in lieu of prospectus, signed by every person who is named therein as a director or a proposed director of the company or by his agent authorized in writing, in the form and containing the particulars set forth in the Fifth Schedule to this Act.

Obligations of companies where no prospectus issued.

(2) This section shall not apply to a private company or to a company which has allotted any shares or debentures before the commencement of this Act.

81. A company shall not previously to the statutory meeting vary the terms of a contract referred to in the prospectus or statement in lieu of prospectus, except subject to the approval of the statutory meeting.

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.

82. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who has authorized the naming of him and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved

Liability for statements in prospectus.

(a) with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures (as the case may be), believe, that the statement was true; and

(b) with respect to every such untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation; provided, that the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and

(c) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document;

or unless it is proved

(i) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or

(ii) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or

(iii) that after the issue of the prospectus and before allotment thereunder, he on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.

(2) Where a company registered under the Limited Liability Companies Laws before the coming into operation of Law No. 1 of 1891 has issued shares or debentures, and, for the purpose of obtaining further capital by subscriptions for shares or debentures, issues a prospectus, a director shall not be liable in respect of any statement therein, unless he has authorized the issue of the prospectus, or has adopted or ratified it.

(3) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company (except any without whose knowledge or consent the prospectus was issued) and any other person who authorized the issue thereof shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(4) Every person who by reason of his being a director, or named as a director or as having agreed to become a director, or

of his having authorized the issue of the prospectus, becomes liable to make payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(5) For the purposes of this section

“promoter” shall mean a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but shall not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company ;

“expert” shall include an engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him.

#### ALLOTMENT.

83. (1) No allotment shall be made at any time of any share capital of a company offered to the public for subscription, unless the following conditions have been complied with, namely:—

Restrictions  
as to  
allotment.

(a) the amount (if any) fixed by the memorandum or articles and named in the prospectus as the minimum subscription upon which the directors may proceed to allotment not being less than seventy-five per cent. of the whole amount of the share capital offered for subscription ; or

(b) if no amount is so fixed and named, then the whole amount of the share capital so offered for subscription ; has been subscribed, and the sum payable on application for the amount so fixed and named, or for the whole amount offered for subscription, has been paid to and received by the company.

(2) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Act referred to as the minimum subscription.

(3) The amount payable on application on each share shall not be less than ten per cent. of the nominal amount of the share.

(4) The amount paid on application shall be set apart by the directors as a separate fund and shall not be available for the purposes of the company or for the satisfaction of its debts until the minimum subscription has been made up.

(5) If the conditions aforesaid have not been complied with on the expiration of forty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and if any such money is not so repaid within sixty days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of six per centum per annum from the expiration of the sixtieth day ;

Provided that a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

(6) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(7) In the case of any allotment made at any time of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless the minimum subscription (that is to say) :—

(a) the amount (if any) fixed by the memorandum or articles and named in the statement in lieu of prospectus as the minimum subscription upon which the directors may proceed to allotment not being less than seventy-five per cent. of the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash ; or

(b) if no amount is so fixed and named, then the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash ; has been subscribed and an amount not less than ten per cent. of the nominal amount of each share payable in cash has been paid to and received by the company.

This sub-section shall not apply to a private company.

84. (1) An allotment made by a company to an applicant in contravention of the provisions of the last preceding section shall be voidable at the instance of the applicant within one month thereafter and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes or permits or authorizes the contravention of the last preceding section with respect to allotment, he shall be liable to a fine not exceeding one hundred pounds, and shall be further liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby ; provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of the allotment.

85. (1) A company shall not commence business or exercise any borrowing powers unless

(a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription ; and

(b) every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription, or in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, on the shares payable in cash ; and

(c) there has been lodged with the Registrar an affidavit or other solemn declaration made by the secretary or one of the directors, that the conditions aforesaid have been complied with ; and

Effect of  
irregular  
allotment.

Restrictions  
on commence-  
ment of  
business.

(d) in the case of a company which does not issue a prospectus there has been lodged with the Registrar a statement in lieu of prospectus.

(2) The Registrar shall, on the lodging of this affidavit or solemn declaration, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled ;

Provided that, in the case of a company which does not issue a prospectus, the Registrar shall not give such a certificate unless a statement in lieu of prospectus has been lodged with him.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(4) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(5) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding fifty pounds for every day during which the contravention continues.

(6) Nothing in this section shall apply to a private company, or to a company registered before the commencement of this Act which does not issue a prospectus.

86. (1) Whenever a limited company makes any allotment of its shares, the company shall within one month thereafter lodge with the Registrar Return as to allotments.

(a) a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, and addresses of the allottees, and the amount (if any) paid or due and payable on each share ; and

(b) in the case of shares allotted as fully or partly paid up otherwise than cash, a contract in writing constituting the title of the allottee to the allotment, together with any contract of sale, or for services or other consideration in respect of which that allotment was made, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2) Where such a contract is not reduced to writing the company shall, within one month after the allotment, lodge with the Registrar the prescribed particulars of the contract.

(3) If default is made in complying with the requirements of this section, every director, manager, secretary, or other officer of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds for every day during which the default continues.

Provided that in case of default in lodging with the Registrar within one month after the allotment any document required to be lodged by this section, the company, or any person liable for



the default, may apply to the Court for relief, and the Court, if satisfied that the omission to lodge the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the lodging of the document for such period as the court may think proper.

#### COMMISSIONS AND DISCOUNTS.

Power to pay certain commissions, and prohibition of payment of all other commissions, discounts, etc.

87. (1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if the payment of the commission is authorized by the articles, and the commission paid or agreed to be paid does not exceed the amount or rate so authorized, and if the amount or rate per cent. of the commission paid or agreed to be paid is

(a) in the case of shares offered to the public for subscription, disclosed in the prospectus; or

(b) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and lodged with the Registrar, and where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount, or allowance, to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay, and a vendor to, promoter of, or other person who receives payment in money or shares from a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

Statement in balance-sheet as to commissions and discounts.

88. Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed or so much thereof as has not been written off, shall be stated in every balance-sheet of the company until the whole amount thereof has been written off.

## PAYMENT OF INTEREST OUT OF CAPITAL.

89. Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant ;

Power of company to pay interest out of capital in certain cases.

Provided that

(1) No such payment shall be made unless the same is authorized by the articles or by special resolution :

(2) No such payment, whether authorized by the articles or by special resolution, shall be made without the previous sanction of the Minister :

(3) Before sanctioning any such payment the Minister may, at the expense of the company, appoint a person to inquire and report to him as to the circumstances of the case, and may, before making the appointment, require the company to give satisfactory security for the payment of the costs of the inquiry :

(4) The payment shall be made only for such period as may be determined by the Minister ; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided :

(5) The rate of interest shall in no case exceed six per cent. per annum or such lower rate as may for the time being be prescribed by the Minister :

(6) The payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid :

(7) The accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.

## CERTIFICATES OF SHARES, ETC.

90. (1) Every company shall, within two months after the allotment of any of its shares, debentures, or debenture stock, and within two months after the registration of the transfer of any such shares, debentures, or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide.

Limitation of time for issue of certificates.

(2) If default is made in complying with the requirements of this section, the company, and every director, manager, secretary, and other officer of the company who is knowingly a party to the default, shall be liable to a fine not exceeding five pounds for every day during which the default continues.

## REGISTER OF MORTGAGES.

Company's  
register of  
mortgages.

91. (1) Every company shall keep a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company, giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge, and (except in case of securities to bearer) the names of the mortgagees or persons entitled to the charge.

(2) If any director, manager, secretary or other officer of the company knowingly or wilfully authorizes or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding fifty pounds.

(3) Nothing in this section contained shall apply to an existing company till the expiration of three months from the commencement of this Act.

Right to  
inspect  
company's  
register of  
mortgages.

92. (1) The register of mortgages kept in pursuance of the last preceding section shall be open at all reasonable times to the inspection of the Registrar or any creditor or member of the company without fee, and of any other person on payment of such fee, not exceeding two shillings and sixpence for each inspection, as the company may prescribe.

(2) If inspection of the said register is refused, any officer of the company refusing inspection, and every director, manager, secretary or other officer of the company authorizing or knowingly and wilfully permitting the refusal, shall be liable to a fine not exceeding five pounds, and a further fine not exceeding two pounds for every day during which the refusal continues; and in addition the court may, by order, compel immediate inspection of the said register.

Right of  
debenture  
holders to  
inspect the  
register of  
debenture  
holders and  
to have copies  
of trust deed.

93. (1) Every register of holders of debentures of a company shall, except when closed in accordance with the articles, during such period or periods (not exceeding in the whole sixty days in any year) as may be specified in the articles, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and the company shall furnish to every such holder extracts from the register on payment by such holder of one shilling for every hundred words or fractional part thereof required to be extracted or shall afford him or his duly authorized agent adequate facilities for making such extracts.

(2) A copy of any trust deed for securing any issue of debentures shall be transmitted to every holder of any such debentures at his request on payment, in the case of a printed trust deed, of the sum of two shillings and sixpence or such less sum as may be prescribed by the company, or where the trust deed has not been printed, on payment of one shilling for every hundred words or fractional part thereof required to be copied.

(3) If the inspection, extracts, or facilities be refused, or a copy of a trust deed be refused or not transmitted, the company shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding two pounds for every day during which the

refusal continues, and every director, manager, secretary, or other officer of the company who knowingly authorizes or permits the refusal shall incur the like penalty.

#### DEBENTURES.

94. (1) Where either before or after the commencement of this Act a company has redeemed any debentures previously issued, the company, unless the articles or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do (not being an obligation enforceable only by the person to whom the redeemed debentures were issued or his assigns) shall have power, and shall be deemed always to have had power, to keep the debentures alive for the purposes of re-issue, and where a company has purported to exercise such a power the company shall have power, and shall be deemed always to have had power, to re-issue the debentures either by re-issuing the same debentures or by issuing other debentures in their place, and upon such re-issue the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

Power to re-issue redeemed debentures in certain cases.

(2) Where with the object of keeping debentures alive for the purpose of re-issue, they have either before or after the commencement of this Act been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a re-issue for the purposes of this section.

(3) Where a company has either before or after the commencement of this Act deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4) Nothing in this section shall prejudice any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished reserved to a company by its debentures or the securities for the same.

95. A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.

Specific performance of contract to subscribe for debentures.

#### INSPECTION AND AUDIT.

96. (1) The Minister may appoint one or more inspectors to investigate the affairs of any company and to report thereon in such manner as he may direct

Investigation of affairs of company by inspectors appointed by Minister.

(a) in the case of a company having a share capital, on the application of members holding not less than one-tenth of the shares issued;

(b) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members.

(2) The application shall be supported by such evidence as the Minister may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious

motives in requiring the investigation, and the Minister may, before appointing an inspector require the applicants to give satisfactory security for payment of the costs of the investigation.

(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or power.

(4) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(5) If any officer or agent refuses to produce any book or document which, under this section, it is his duty to produce, or to answer any question relating to the affairs of the company, notwithstanding that the answer may tend to incriminate him, he shall be liable to a fine not exceeding five pounds in respect of each offence.

(6) On the conclusion of the investigation the inspectors shall report their opinion to the Minister, who shall cause a copy of the report to be transmitted to the registered office of the company, and, at the request of the applicants for the investigation, shall cause a further copy to be delivered to such applicants. The report shall be written or printed, as the Minister directs.

(7) All expenses of and incidental to the investigation shall be defrayed by the applicants unless the Minister orders the same to be paid by the company.

Power of  
company to  
appoint  
inspectors.

97. (1) A company may by special resolution appoint inspectors to investigate its affairs.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Minister, except that instead of reporting to him, they shall report in such manner and to such persons as the company in general meeting may direct.

(3) Officers and agents of the company shall incur the like penalties, in the case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the Minister.

Report of  
inspectors to  
be evidence.

98. A copy of the report of any inspectors appointed under this Act shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

Appointment  
and  
remuneration  
of auditors.

99. (1) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) If an appointment of auditors is not made at an annual general meeting, the Minister may, on the application of any member of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(3) No director, manager, secretary or other officer of the company shall be capable of being appointed auditor of the company.

(4) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a shareholder to the company not less than fourteen days before the annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the shareholders, either by advertisement or in any other mode allowed by the articles, not less than seven days before the annual general meeting ;

Provided that if, after notice of intention to nominate an auditor has been so given, an annual general meeting is called for a date fourteen days or less after the notice has been given, the notice, though not given within the time required by this sub-section, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this sub-section, be sent or given at the same time as the notice of the annual general meeting.

(5) The first auditor or auditors of the company shall be appointed by the directors before the statutory meeting, and shall hold office until the first annual general meeting, unless previously removed by a resolution of the shareholders in general meeting, in which case the shareholders at that meeting shall appoint auditors.

(6) The directors of a company may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors may act.

(7) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors.

100. (1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

Powers and  
duties of  
auditors.

(2) The auditors shall make a report to the shareholders on the accounts examined by them, and on every balance-sheet laid before the company in general meeting during their tenure of office, and the report shall state

(a) whether or not they have obtained all the information and explanations they have required ; and

(b) whether, in their opinion, the balance-sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(3) The balance-sheet shall be signed on behalf of the board by two of the directors of the company or, if there is only one director, by that director, and the auditors' report shall be attached to the balance sheet, or there shall be inserted at the

foot of the balance-sheet a reference to the report, and the report shall be read before the company in general meeting, and shall be open to inspection by any shareholder.

Any shareholder shall be entitled to be furnished with a copy of the balance-sheet and auditors' report at a charge not exceeding one shilling for every hundred words.

(4) If any copy of a balance-sheet which has not been signed as required by this section is issued, circulated, or published, or if any copy of a balance-sheet is issued, circulated, or published without having a copy of the auditors' report attached thereto or containing such reference to that report as is required by this section, the company, and every director, manager, secretary, or other officer who is knowingly a party to the default shall be liable to a fine not exceeding fifty pounds.

Rights of preference shareholders and debenture holders as to receipt and inspection of reports.

101. (1) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance-sheets of the company and the reports of the auditors and other reports, as are possessed by the holders of ordinary shares in the company.

(2) This section shall not apply to a private company, nor to an existing company.

#### CARRYING ON BUSINESS WITH LESS THAN THE LEGAL MINIMUM NUMBER OF MEMBERS.

Prohibition of carrying on business with fewer than seven, or, in the case of a private company, two members.

102. If at any time the number of members of a company is reduced, in the case of a private company, below two, or, in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months, and is cognizant of the fact that it is carrying on business with fewer than two members, or seven members (as the case may be), shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be sued for the same, without any other member being joined in the action.

#### ARBITRATIONS.

Arbitration between companies and others.

103. (1) A company may, by writing under the hands of two of its directors, or, if there be only one director, under the hand of that director, agree to refer and may refer to arbitration, in accordance with the Arbitration Ordinance 1904 or any amendment thereof, any existing or future difference between itself and any other company or person.

(2) Companies parties to the arbitration may delegate to the arbitrator power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.

(3) All the provisions of the said Ordinance or any amendment thereof, shall apply to arbitrations between companies and persons in pursuance of this Act.

#### POWER TO COMPROMISE.

Power to compromise with creditors and members.

104. (1) Where any compromise or arrangement is proposed between a company and its creditors or any class of them, or

between a company and its members or any class of them, the Court may, on the application of the company or any creditor or member of the company or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members (as the case may be), to be summoned in such manner as the court directs.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members (as the case may be), present either by person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the court be binding on all the creditors or the class of creditors, or on the members or class of members (as the case may be), and also on the company, or in the case of a company in course of being wound up, on the liquidator and contributories of the company.

#### PRIVATE COMPANY BECOMING A PUBLIC COMPANY.

105. A private company may, subject to anything contained in the memorandum or articles, by passing a special resolution and lodging with the Registrar such a statement in lieu of prospectus, as the company, if a public company, would have had to lodge before allotting any of its shares or debentures, together with any such affidavit or other solemn declaration as the company, if a public company, would have had to lodge before commencing business, turn itself into a public company.

Mode in which private company may become a public company.

### CHAPTER IV.

#### WINDING-UP.

##### PRELIMINARY.

106. (1) The winding-up of a company may be either  
 (i) by the court; or  
 (ii) voluntary; or  
 (iii) subject to the supervision of the Court.  
 (2) The provisions of this Act with respect to winding-up apply, unless the contrary appears, to the winding-up of a company in any of those modes.

Modes of winding-up.

##### CONTRIBUTORIES.

107. (1) In the event of a company being wound up, every present and past member shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges, and expenses of the winding-up, and for the adjustment of the rights of the contributories among themselves, with the qualifications following (that is to say) :—

Liability as contributories of present and past members.

(i) A past member shall not be liable to contribute if he has ceased to be a member for a period of one year or upwards before the commencement of the winding-up ;



- (ii) a past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member ;
- (iii) a past member shall not be liable to contribute unless it appears to the court that the present members are unable to satisfy the contributions required to be made by them in pursuance of this Act ;
- (iv) in the case of a limited company no contribution shall be required from any member exceeding the amount (if any) unpaid on the shares in respect of which he is liable as a present or past member ;
- (v) nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract, whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract ;
- (vi) a sum due to any member of a company, in his character of a member, by way of dividends, profits, or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company ; but any such sum may be taken into account, for the purpose of the final adjustment of the rights of the contributories amongst themselves.

(2) In the winding-up of a limited company, any director\* or manager, whether past or present, whose liability is, in pursuance of this Act, unlimited shall, in addition to his liability (if any) to contribute as an ordinary member be liable to make a further contribution as if he were at the commencement of the winding-up a member of an unlimited company ;

Provided that

- (i) a past director or manager shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding-up ;
- (ii) a past director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office ;
- (iii) subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of the winding-up.

Meaning of  
"contribu-  
tory".

108. The term "contributory" shall mean every person liable to contribute to the assets of a company in the event of its being wound up, and in all proceedings for determining and in all proceedings prior to the final determination of the persons who are to be deemed contributories, shall include any person alleged to be a contributory.

\* As in *Gazette* ; in Statutes, 1909, the word "creditor" is substituted.

109. The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability. Nature of liability of contributory.

110. If a contributory dies before or after he has been placed on the list of contributories, his executors or his heirs or legatees shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly, the liability of the legatees or heirs, if the estate has passed into their hands, being assessed rateably to the extent of the legacies or inheritances (as the case may be) severally received by them. Contributories in case of death.

111. If a contributory becomes insolvent either before or after he has been placed on the list of contributories, then Contributories in case of insolvency.

(i) his trustee in insolvency shall represent him for all the purposes of winding-up, and shall be a contributory accordingly; and

(ii) there may be proved against the estate of the insolvent the estimated value of his liability to future calls, as well as calls already made.

#### WINDING-UP BY COURT.

112. A company may be wound up by the Court Circumstances in which company may be wound up by Court.

(i) if the company has by special resolution resolved that the company be wound up by the court;

(ii) if default is made in lodging the statutory report or in holding the statutory meeting;

(iii) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;

(iv) if the number of members is reduced, in the case of a private company below two, or, in the case of any other company, below seven;

(v) if seventy-five per cent. of the paid-up share capital of the company has been lost, or has become useless for the business of the company;

(vi) if the company is unable to pay its debts;

(vii) if the court is of opinion that it is just and equitable that the company should be wound up.

113. A company shall be deemed to be unable to pay its debts Company when deemed unable to pay its debts.

(i) if a creditor, by cession or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving the same at its registered office, a demand requiring the company to pay the sum so due, and the company has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or

(ii) if execution or other process issued on a judgment, decree, or order of any court of law in favour of a creditor of the company is returned by the sheriff or messenger with the endorsement that he has not found sufficient assets to

satisfy the judgment, decree, or order, or that any assets found did not, upon sale, satisfy the execution or other process ; or

(iii) if it is proved to the satisfaction of the Court that the company is unable to pay its debts, and in determining whether a company is unable to pay its debts, the court shall take into account the contingent and prospective liabilities of the company.

Application  
for winding-  
up a company.

114. (1) An application to the Court for the winding-up of a company shall be by petition, presented (subject to the provisions of this section) by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately ;

Provided that

(a) a contributory shall not be entitled to present a petition for winding-up a company, unless

(i) the number of members is reduced in the case of a private company, below two, or in the case of any other company, below seven ; or

(ii) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of the winding-up, or have devolved upon him through the death of a former holder ; and

(b) a petition for winding-up a company on the ground of default in lodging the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held ; and

(c) the court shall not give a hearing to a petition for winding-up a company by a contingent or prospective creditor until such security for costs has been given as the court thinks reasonable and until a prima facie case for winding-up has been established to the satisfaction of the court.

(2) Where a company is being wound up voluntarily or subject to supervision, a petition may be presented by the Master, or by any other person authorized in that behalf under the other provisions of this section, but the court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding-up or winding-up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories.

Effect of  
winding-up  
order.

115. An order for winding-up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

Commence-  
ment of  
winding-up  
by Court.

116. A winding-up of a company by the court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

117. At any time after the presentation of a petition for winding-up, and before a winding-up order has been made, the company, or any creditor or contributory, may

Court may stay or restrain proceedings against the company.

(a) where any action or proceedings is pending in any court of law in this Colony, apply to such court for a stay of proceedings therein ; and

(b) where any other action or proceeding is pending against the company, apply to the court having jurisdiction to wind-up the company to restrain further proceedings in the action or proceeding ;

and the court to which application is so made may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

118. (1) On hearing the petition the court may dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally, or make any *interim* order, or any other order that it deems just, but the court shall not refuse to make a winding-up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

Power of Court in hearing petition.

(2) When the petition is presented on the ground of default in lodging the statutory report or in holding the statutory meeting the court may order the costs to be paid by any persons who, in the opinion of the court, are responsible for the default.

119. When a winding-up order has been made, no action or proceeding shall be proceeded with or commenced against the company except by leave of the court, and subject to such terms as the court may impose.

Action stayed on winding-up order.

120. (1) On the presentation of the petition, written notice thereof, and on the making of a winding-up order, a copy thereof, shall forthwith be transmitted by the registrar of the court to which the petition is presented, or of the court which made the order, to the Registrar, the Master, the registrar of deeds, the registrar of mining titles, and every other officer charged with the duty of registering title to immovable property or mining title.

Copy of order to be transmitted to Registrar and other officers.

(2) The Registrar upon receipt of such notice or copy shall make a minute thereof in his books relating to the company.

(3) The Master upon receipt of such copy shall as soon as may be thereafter advertise the terms thereof in the *Gazette*.

(4) The registrar of deeds, the registrar of mining titles and every other registering officer aforesaid upon receipt of such notice or copy shall make a minute thereof in his register and shall transmit to the Master as soon as may be a return of any immovable property or ground held under mining title (as the case may be) which is registered in that register in the name of the company.

121. The court may at any time after an order for winding-up, on the application of any creditor or contributory, and on proof to the satisfaction of the Court that all proceedings in relation to the winding-up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Court deems fit.

Power of Court to stay winding-up.

Court may have regard to wishes of creditors or contributories.

122. The court may, as to all matters relating to winding-up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

#### MASTER OF THE SUPREME COURT.

Statement of company's affairs to Master.

123. (1) Where the court has made a winding-up order, there shall be made out and submitted to the Master a statement as to the affairs of the company in the prescribed form, verified by affidavit, and showing the particulars of its assets, debts, and liabilities, the names, residences, and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the Master may require; a duplicate of such statement shall be lodged with the liquidator.

(2) The statement shall be submitted and verified by one or more of the persons who are at the time of the winding-up order the directors and by the person who is at that time the secretary or other chief officer of the company, or by such of the persons being or having been directors or officers of the company or having taken part in the formation of the company at any time within one year before the winding-up order, as the Master, subject to the direction of the court, may require to submit and verify the same.

(3) The statement shall be submitted within fourteen days from the date of the order, or within such extended time as the Master or the court may for special reasons appoint.

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the Master, out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the Master may consider reasonable, subject to an appeal to the court.

(5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding ten pounds for every day during which the default continues.

(6) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom. But any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of court and shall be punishable accordingly on the application of the liquidator or of the Master.

Report by Master.

124. (1) Where the court has made a winding-up order, the Master shall, as soon as practicable after receipt of the statement of the company's affairs, submit a preliminary report to the Court

(a) as to the amount of capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities; and

(b) if the company has failed, as to the causes of the failure ; and

(c) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation, or failure of the company, or the conduct of the business thereof.

(2) The Master may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the court.

#### LIVIDATORS.

125. (1) For the purpose of conducting the proceedings in winding-up a company and performing such duties in reference thereto as the Court may impose, the court may appoint a liquidator or liquidators. Appointment remuneration and title of liquidators.

(2) The court may make such appointment provisionally at any time after the presentation of a petition and before the making of an order for winding-up.

(3) (a) If a provisional liquidator is appointed before the making of a winding-up order, any fit person may be appointed ;

(b) on a winding-up order being made all the property of the company shall be deemed to be in the custody or control of the Master until a liquidator is appointed and is capable of acting as such ;

(c) a person shall not be capable of acting as liquidator until he has notified his appointment to the Registrar and found security to the satisfaction of the Master.

(4) If more than one liquidator is appointed by the court, the court shall declare whether any act by this Act required or authorized to be done by the liquidator is to be done by all or any one or more of the persons appointed.

(5) A liquidator appointed by the court may, with the leave of the court, resign, or, on cause shown, be removed by the court.

(6) A vacancy in the office of liquidator appointed by the court shall be filled by the court.

The property of the company shall be deemed to be in the custody or control of the Master during the vacancy if there is no liquidator remaining.

(7) A liquidator shall receive the prescribed fees as remuneration.

(8) If any such liquidator shall fail without sufficient excuse to lodge with the Master the liquidation account and plan of distribution hereinafter prescribed, and within the time so prescribed, the Master may, subject to a right of appeal by the liquidator to the court, disallow the whole or any portion of the remuneration which such liquidator, in that capacity, would otherwise have been entitled to receive.

cannot be conveniently done in the name of the company ; and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself ;

(j) to do all such other things as may be necessary for winding-up the affairs of the company and distributing its assets.

The liquidator in a winding-up by the court of an insolvent company shall have the same rights, in respect of leases or agreements for leases entered into by the company, which the trustee of an insolvent estate has under the law for the time being relating to insolvency.

(2) The exercise by the liquidator in a winding-up by the court of the powers conferred by this section shall be subject to the control of the court and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.

(3) Where a liquidator is provisionally appointed by the court, the court may limit and restrict his powers by the order appointing him.

128. (1) When a winding-up order has been made by the court, the Master shall summon separate meetings of the creditors and contributories of the company for the purpose of

Meetings of  
creditors and  
contributories  
in  
winding-up.

(a) determining the person or persons whose names shall be submitted to the court in an application to the court for appointing a liquidator or liquidators ; and

(b) determining whether or not an application is to be made to the court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee, if appointed.

(2) The court may make any appointment and order required to give effect to any such determination, and if there is a difference between the determinations of the meetings of the creditors and contributories in respect of any of the matters mentioned in the preceding provisions of this section, the court shall decide the difference and make such order thereon as the court may think fit.

(3) The provisions of the Sixth Schedule to this Act shall, subject to such modifications as may be made therein by rules of court, apply to any meeting summoned in pursuance of this section.

129. Every liquidator shall give the Master such information and such access to and facilities for inspecting the books and documents of the company, and generally such aid as may be requisite for enabling that officer to perform his duties under this Act.

Liquidator  
to give  
information  
to Master.

130. (1) Every liquidator of a company which is being wound up by the court shall forthwith pay the money received by him to a bank named by the Master and the bank shall furnish him with a certificate of receipt of the money so paid

Payments of  
liquidator in  
winding-up  
into bank.

Provided that, if the committee of inspection satisfy the Master that for the purpose of carrying on the business of the

company or of obtaining advances, or for any other reason, it is for the advantage of the creditors or contributories that the liquidator should have an account with any other bank, the Master shall, on the application of the committee of inspection, authorize the liquidator to make his payments into and out of such other bank as the committee may select, and thereupon those payments shall be made in the prescribed manner.

(2) If any such liquidator at any time retains for more than three days a sum exceeding fifty pounds, or such other amount as the Master in any particular case authorizes him to retain, then, unless he explains the retention to the satisfaction of the Master, he shall pay interest on the amount so retained in excess at the rate of twenty per cent. per annum, and shall be liable to disallowance of all or such part of his remuneration as the Master may think just, and to be removed from his office by the Court, and shall be liable to pay any expenses occasioned by reason of his default.

(3) A liquidator of a company which is being wound up by the court shall not pay any sums received by him as liquidator into his private banking account.

Audit of liquidator's accounts in winding-up.

131. (1) Every liquidator of a company which is being wound up by the court shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the Master an account of his receipts and payments as liquidator.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by an affidavit or other solemn declaration in the prescribed form.

(3) The Master shall cause the account to be audited and for the purpose of the audit the liquidator shall furnish the Master with such vouchers and information as the Master may require, and the Master may at any time require the production of and inspect any books or accounts kept by the liquidator.

(4) When the account has been audited, one copy thereof shall be filed and kept by the Master, another copy shall be sent to the liquidator, and another copy shall be filed with the court, and each copy shall be open to the inspection of any creditor, or of any person interested.

(5) The liquidator shall cause the account when audited or a summary thereof to be printed, and shall send a copy of the account or summary by post to every creditor and contributory.

(6) The cost of any audit, printing, or transmission of accounts under this section shall be expenses properly incurred in the winding-up.

Books to be kept by liquidator in winding-up.

132. Every liquidator of a company which is being wound up by the court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the court, personally or by his agent inspect any such books.

Obligations of liquidator as to framing account etc.

133. The liquidator shall, in a winding-up of a company by the court, be under the like obligations with regard to the framing and lodging of a liquidation account and a plan of distribution or



contribution, as the trustee of an insolvent estate appointed under the law for the time being in force relating to insolvency; and the confirmation of such account and plan of distribution or contribution, and the distribution of all moneys payable thereunder, shall be subject to the provisions of such law;

Provided that the Master may give such directions with regard to the advertisement of the account and plan of distribution or contribution, and the period of time during which it shall lie open for inspection, as he shall think fit, having regard to all the circumstances of the case.

134. As often as a liquidator shall fail to lodge with the Master the account mentioned in the last preceding section, the Master, or any person having an interest in the company being wound up, may, at any time after the expiry of six months from the date on which the certificate of appointment was given to such liquidator, apply to the court for an order upon the liquidator to show cause why such account has not been lodged;

Procedure on failure of liquidator to lodge liquidation account.

Provided that the Master or the person aforesaid shall, not later than one month before notice of the application is served upon the liquidator, make written demand upon him to lodge his account.

135. (1) When the liquidator of a company which is being wound up by the court has realised all the property of the company, and has distributed a final dividend, if any, to the creditors, and adjusted the rights of the contributories among themselves, and made a final return, if any, to the contributories, the Master shall, on the liquidator's application, cause a report on his accounts to be prepared, and, on the liquidator's complying with all the requirements of the Master, the court shall take into consideration the report, and any objection which may be urged by any creditor, or contributory, or person interested against the release of the liquidator, and, upon consideration of that report and the objection (if any) and of a report made to the court by the Master, the court may either grant or withhold the release.

Release of liquidators.

(2) Where the release of a liquidator is withheld the court may, on the application of any creditor, or contributory, or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

(3) An order of the court releasing the liquidator shall discharge the liquidator from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office.

136. (1) Subject to the provisions of this Act, the liquidator of a company which is being wound up by the court shall, in the administration of the assets of the company, have regard to any directions that may be given by resolution of the creditors or

Exercise and control of liquidator's powers.

contributories at any general meeting, or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The liquidator may, by notice in the *Gazette*, summon general meetings of the creditors or of the contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or the contributories (as the case may be), by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or of the contributories as the case may be.

(3) The liquidator may apply to the court in manner prescribed for directions in relation to any particular matter arising under the winding-up.

(4) Subject to the provisions of this Act, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

(5) If any person is aggrieved by any act or decision of the liquidator, that person may apply to the court, and the court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just.

Control of  
Master over  
liquidators.

137. (1) The Master shall take cognizance of the conduct of liquidators of companies which are being wound up by the court, and if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by statute, rules, or otherwise with respect to the performance of his duties, or, if any complaint is made to the Master by any creditor or contributory in regard thereto, the Master shall inquire into the matter and take such action thereon as he may think expedient.

(2) The Master may at any time require any liquidator of a company which is being wound up by the court to answer any inquiry in relation to any winding-up in which such liquidator is engaged, and may, if he thinks fit, apply to the court to examine such liquidator or any other person on oath concerning the winding-up.

(3) The Master may also direct a local investigation to be made of the books and vouchers of the liquidator.

(4) The court may, upon the application of the Master, order that any costs reasonably incurred by him in carrying out the powers of this section be paid out of the assets of the company or by the liquidator *de bonis propriis*.

#### COMMITTEE OF INSPECTION, SPECIAL MANAGER.

Committee of  
inspection.

138. (1) A committee of inspection appointed in pursuance of this Act shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the court.

(2) The committee shall meet at such times as it may from time to time appoint, and, failing such appointment, at least once

a month; and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3) The committee may act by a majority of its members present at a meeting, but shall not act unless a majority of the committee are present.

(4) Any member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(5) If a member of the committee becomes insolvent, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.

(6) Any member of the committee may be removed by an ordinary resolution at a meeting of creditors (if he represents creditors), or of contributories (if he represents contributories) of which seven days' notice in the *Gazette* has been given, stating the object of the meeting.

(7) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, reappoint the same or appoint another creditor or contributory to fill the vacancy.

(8) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

(9) If there is no committee of inspection, any act or thing or any direction or permission by this Act authorized or required to be done or given by the committee may be done or given by the Master on the application of the liquidator.

139. (1) The Master may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company apply to the court to, and the court may on such application, appoint a special manager thereof to act during such time as the court may direct, with such powers, including any of the powers of a manager, as may be entrusted to him by the court.

Power to appoint special manager.

(2) The special manager shall give such security and account in such manner as the Master directs.

(3) The special manager shall receive the prescribed fees as remuneration.

#### ORDINARY POWERS OF COURT.

140. (1) As soon as may be after making a winding-up order, the court shall settle a list of contributories, with power to rectify the register of members in all cases where such rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected, and applied in discharge of its liabilities.

Settlement of list of contributories and application of assets.

(2) In settling the list of contributories, the court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

Power to require delivery of property.

141. The court may at any time after making a winding-up order, require any contributory for the time being settled on the list of contributories, and any trustee, banker, agent or officer of the company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the court directs, to the liquidator, any money, property, or books and papers in his hands to which the company is prima facie entitled.

Power to order payment of debts by contributory.

142. (1) The court may, at any time after making a winding-up order, make an order on any contributory for the time being settled on the list of contributories to pay, in manner directed by the order, any money due from him, or from the estate of the person whom he represents, to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

(2) The court in making such order may, in the case of an unlimited company, allow to the contributory by way of a set-off any money due to him, or to the estate which he represents, from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and may, in the case of a limited company, make to any director or manager thereof whose liability is unlimited or to his estate the like allowance.

(3) But in the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

Power of court to make calls.

143. (1) The court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of contributories to the extent of their liability, for payment of any money which the court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of winding-up, and for the adjustment of the rights of the contributories among themselves.

(2) In making a call the court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

Power of court to order payment into bank.

144. (1) The court may order any contributory, purchaser, or other person from whom money is due to the company to pay the same into a bank to be named by the court to the account of the liquidator instead of to the liquidator, and such order may be enforced in the same manner as if it had directed payment to the liquidator.

(2) All moneys and securities paid or delivered into a bank as aforesaid in the event of a winding-up by the court shall be subject in all respects to the orders of the court.

Order on contributory conclusive evidence.

145. (1) An order made by the court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money (if any) thereby appearing to be due or ordered to be paid is due.

(2) All other pertinent matters stated in such order shall be taken prima facie as truly stated as against all persons and in all proceedings whatsoever.

146. The court may fix a time or times within which creditors of the company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

Power to exclude creditors not proving in time.

147. The court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

Court to adjust rights of contributories.

148. The court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges, and expenses incurred in the winding-up in such order of priority as the court thinks just.

Power to order costs.

149. (1) When the affairs of a company have been completely wound up, the court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

Dissolution of company.

(2) A copy of the order shall forthwith be transmitted by the registrar of the court which made the order to the Registrar, who shall make a minute in his books of the dissolution of the company.

(3) A copy of the order shall also be transmitted forthwith by the registrar of the court which made the order to the Master, to the registrar of deeds, the registrar of mining titles, and to every officer charged with the duty of registering title to immovable property or mining title in this Colony.

(4) The order shall be published by the liquidator in the *Gazette*, and in such newspapers as the court may direct, within seven days after the making of the order.

(5) If the liquidator makes default in complying with any requirement of this section, he shall be liable to a fine not exceeding five pounds for every day during which he is in default.

\*150. Rules of court may be made for enabling or requiring all or any of the powers and duties conferred and imposed on the court by this Act, in respect of the matters following, to be exercised or performed by the liquidator as an officer of the court, and subject to the control of the court; that is to say, the powers and duties of the court in respect of

Delegation to liquidator of certain powers of court.

(a) holding and conducting meetings to ascertain the wishes of creditors and contributories;

(b) settling lists of contributories and rectifying the register of members where required, and collecting and applying the assets;

(c) requiring delivery of property or documents to the liquidator;

(d) making calls;

(e) fixing a time within which debts and claims must be proved:

Provided that the liquidator shall not, without the special leave of the court, rectify the register of members, and shall not

\* For Rules of Court made under this section see *Ex parte the Master* (1910, *Leader Law Reports*, p. 367).

make any call without either the special leave of the court or the sanction of the committee of inspection.

#### EXTRAORDINARY POWERS OF COURT.

Power to  
summon  
persons before  
it suspected of  
having  
property of  
company.

151. (1) The court may, after it has made a winding-up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the court deems capable of giving information concerning the trade, dealings, affairs, or property of the company.

(2) The court may examine him on oath concerning the same, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them and he may be required to answer any question put to him on the examination, notwithstanding that the answer might tend to incriminate him; provided that any answer given to any such question shall not be used against him in any prosecution other than for perjury or for the offence under this Act of giving false evidence.

(3) The court may require him to produce any books and papers in his custody or power relating to the company; but where he claims any lien on books or papers produced by him; the production shall be without prejudice to such lien, and the court shall have jurisdiction in the winding-up to determine all questions relating to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, fails to come before the court at the time appointed, having no lawful impediment (made known to the court at the time of its sitting and allowed by it) the court may cause him to be apprehended, and brought before the court for examination.

Power to  
order public  
examination  
of promoters,  
directors, etc.

152. (1) When an order has been made for winding-up a company by the court, and the Master has made a further report under this Act, showing that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by a director or officer of the company in relation to the company since its formation, the court may, after consideration of the report, direct that any person who has taken part in the promotion or formation of the company, or has been a director or officer of the company, shall attend before the court on a day appointed by the court for that purpose, and be publicly examined as to the promotion or formation, or the conduct of the business of the company, or as to his conduct and dealings as director or officer thereof.

(2) The Master may take part in the examination, and for that purpose may, if specially authorized by the Minister in that behalf, employ an attorney with counsel.

(3) The liquidator, and any creditor or contributory, may also take part in the examination either personally or by attorney with counsel.

(4) The court may put such questions to the person examined as the court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the court may put or allow to be put to him notwithstanding that any answer may tend to incriminate him.

(6) A person ordered to be examined under this section shall at his own cost, before his examination, be furnished with a copy of the Master's report, and may at his own cost employ an attorney with counsel, who shall be at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify any answers given by him. Provided that if he is, in the opinion of the court, exculpated from any charges made or suggested against him, the court may allow him such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may, save as herein provided, thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times; provided that any answer given by a person upon an examination under this section shall not be used against him in any prosecution other than for perjury or for the offence under this Act of giving false evidence.

(8) The court may, if it thinks fit, adjourn the examination from time to time.

(9) An examination under this section may, if the court so directs, and subject to rules of court, be held before the Master, or a commissioner or a magistrate or other person named or appointed for the purpose by the court, and the powers of the court under this section as to the conduct of the examination, but not as to costs, may be exercised by the person before whom the examination is held; provided that at an examination held before the Master, or a commissioner, or a magistrate, or such other person as aforesaid, an attorney may appear without counsel.

153. The court, at any time before or after making a winding-up order, on proof that there is reason to believe that a contributory is about to quit the Colony, or otherwise to abscond, or to remove or conceal any property for the purpose of evading payment of calls, or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested, and his books and papers and movable property to be seized, and him and them to be safely kept until such time as the court may order.

Power to arrest absconding contributory.

154. Any powers by this Act conferred on the court shall be deemed to be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

Powers of court cumulative.

155. Subject to rules of court, an appeal from any order or decision made or given for or in the winding-up of a company by the court under this Act shall lie in the same manner and subject to the same conditions as an appeal from any order or decision of the court in cases within its ordinary jurisdiction.

Appeals from order.

## VOLUNTARY WINDING-UP OF COMPANY.

Circumstances under which company may be wound up voluntarily.

156. A company may be wound up voluntarily  
 (1) when the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily ;  
 (2) if the company resolves by special resolution that the company be wound up voluntarily ;  
 (3) if the company resolves by extraordinary resolution that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

Commencement of voluntary winding-up.

157. A voluntary winding-up shall be deemed to commence at the time of the passing of the resolution authorizing the winding-up.

Effect of voluntary winding-up on status of company.

158. When a company is wound up voluntarily the company shall, from the commencement of the winding-up, cease to carry on its business, except in so far as may be required for the beneficial winding-up thereof:

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

Notice of resolution to wind up voluntarily

159. (1) When the company has resolved by special or extraordinary resolution to wind up voluntarily it shall as soon as may be give notice of the resolution by advertisement in the *Gazette*.

(2) Notice in writing of the resolution shall also be given as soon as may be by the company to the Master, to the registrar of deeds, to the registrar of mining titles, and to every officer charged with the duty of registering title to immovable property or mining title in this Colony.

(3) If default is made by a company in complying with the requirements of this section the company, and every director, manager, secretary or other officer of the company, who knowingly authorized or permitted the default shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Consequences of voluntary winding-up.

160. The following consequences shall ensue on the voluntary winding-up of a company :—

(i) The property of the company shall be applied in satisfaction of its liabilities in the legal order of their preference and subject thereto, shall, unless the articles otherwise provide, be distributed amongst the members according to their rights and interests in the company ;

(ii) the company in general meeting shall appoint one or more liquidators for the purpose of winding-up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them ;

(iii) on the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance ;



(iv) the liquidator may, without the sanction of the court, exercise all powers by this Act given to the liquidator in a winding-up by the court ;

(v) the liquidator may exercise the powers of the court under this Act of settling a list of contributories, and of making calls, and shall pay the debts of the company, and adjust the rights of the contributories among themselves ;

(vi) the list of the contributories shall be prima facie evidence of the liability of the persons named therein to be contributories ;

(vii) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two ;

(viii) if from any cause whatever there is no liquidator acting, the court may, on the application of a contributory, appoint a liquidator ;

(ix) the court may, on good cause shown, remove a liquidator and appoint another liquidator.

161. (1) The liquidator in a voluntary winding-up shall, within twenty-one days after his appointment, lodge with the Registrar and with the Master, a notice of his appointment in the prescribed form.

Notice by liquidator of his appointment.

(2) If the liquidator fails to comply with the requirements of this section he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

162. (1) Every liquidator appointed by a company in a voluntary winding-up shall, within seven days from his appointment, send notice by post to all persons who appear to him to be creditors of the company, that a meeting of the creditors of the company will be held, on a date, not being less than fourteen nor more than twenty-one days after his appointment, and at a place and hour, to be specified in the notice, and shall also advertise notice of the meeting once in the *Gazette* and once at least in two newspapers circulating in the district where the registered office or principal place of business of the company was situate.

Rights of creditors in a voluntary winding-up.

(2) At the meeting to be held in pursuance of the provisions of this section the creditors shall determine whether an application shall be made to the court for the appointment of any person as liquidator in the place of or jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection, and, if the creditors so resolve, an application may be made accordingly to the court at any time not later than fourteen days after the date of the meeting, by any creditor appointed for the purpose at the meeting.

(3) On any such application the court may make an order either for the removal of the liquidator appointed by the company and for the appointment of some other person as liquidator or for the appointment of some other person to act as liquidator jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection either together with or without

any such appointment of a liquidator or such other order as, having regard to the interests of the creditors and contributories of the company, may seem just.

(4) No appeal shall lie from any order of the court upon an application under this section.

(5) The court shall make such order as to the costs of the application as it may think fit, and if it is of opinion that, having regard to the interests of the creditors in the liquidation, there were reasonable grounds for the application, may order the costs of the application to be paid out of the assets of the company, notwithstanding that the application is dismissed or otherwise disposed of adversely to the applicant.

Power to fill  
vacancy in  
office of  
liquidator.

163. (1) If a vacancy occurs by death, resignation, or otherwise in the office of liquidator appointed by the company in a voluntary winding-up, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be convened by any contributory, or, if there were more liquidators than one, by the continuing liquidator or liquidators.

(3) The meeting shall be held in manner prescribed by the articles, or in such manner as may, on application by any contributory or by the continuing liquidator or liquidators, be determined by the court.

Delegation of  
authority to  
appoint  
liquidators.

164. (1) A company about to be, or in the course of being wound up voluntarily, may, by extraordinary resolution, delegate to its creditors or to any committee of them, the power of appointing liquidators or any of them, and of supplying vacancies among the liquidators, or enter into any arrangement with respect to the powers to be exercised by the liquidators, and the manner in which they are to be exercised.

(2) Any act done by creditors in pursuance of any such delegated power shall have the same effect as if it had been done by the company.

Arrangement  
when binding  
on creditors.

165. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up voluntarily, and its creditors, shall, subject to any right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the court against it and the court may thereupon, as it thinks just, amend, vary, or confirm the arrangement.

Power of  
liquidators to  
accept shares,  
etc., as a con-  
sideration for  
sale of  
property of  
company.

166. (1) Where a company is proposed to be, or is being, wound up altogether voluntarily and the whole or part of its business or property is proposed to be transferred or sold to another company, whether registered under this Act or not (in this section called the transferee company), the liquidator of the first-mentioned company (in this section called the transferor company) may, with the sanction of a special resolution of that company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive

in compensation or part compensation for the transfer or sale, shares, policies, or other like interests in the transferee company, for distribution amongst the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution at either of the meetings held for passing and confirming the same, expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the confirmation of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by this section.

(4) If the liquidator elects to purchase the member's interest, the purchase money shall be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for winding-up the company, or for appointing liquidators; but if an order be made within a year for winding-up the company by or subject to the supervision of the court, the special resolution shall not be valid unless sanctioned by the court.

(6) For the purposes of an arbitration under this section the provisions of the Expropriation of Lands and Arbitration Clauses Proclamation 1902 and of the Arbitration Ordinance 1904 or any amendment thereof with respect to settlements of disputes by arbitration shall be incorporated with this Act.

167. (1) Where a company is being wound up voluntarily, the liquidator or any contributory or creditor of the company may apply to the court to determine any question arising in the winding-up, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the court might exercise if the company were being wound up by the court.

Power to apply to court.

(2) The court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as the court thinks fit, or may make such other order on the application as the court thinks just.

168. (1) Where a company is being wound up voluntarily, the liquidator may summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution, or for any other purposes he may think fit.

Power of liquidator to call general meeting.

(2) In the event of the winding-up continuing for more than six months, the liquidator shall summon a general meeting of the company at the end of the first six months from the commencement of the winding-up, and of each succeeding period of six months or as soon thereafter as may be convenient, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding-up during the preceding period of six months.

Final meeting  
and dissolu-  
tion.

169. (1) In the case of every voluntary winding-up, as soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding-up, showing how the winding-up has been conducted and the property of the company has been disposed of; and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement in the *Gazette* specifying the time, place, and object thereof, and published one month at least before the meeting.

(3) Within one week after the meeting, the liquidator shall make a return to the Registrar and to the Master of the holding of the meeting and of its date, and in default of so doing shall be liable to a fine not exceeding five pounds for every day during which any such default continues.

(4) The Registrar on receiving the return shall forthwith register it, and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved.

Provided that the court may, on the application of the liquidator, or of any other person who appears to the court to be interested make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.

(5) It shall be the duty of the person on whose application an order of the court under this section is made, within seven days after the making of the order, to lodge with the Registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Saving of  
rights of  
creditors and  
con-  
tributories.

170. The voluntary winding-up of a company shall not bar the right of any creditor or contributory at any time before its dissolution to have it wound up by the court, if the court is of opinion, in the case of an application by a creditor, that the rights of the creditor, or, in the case of an application by a contributory, that the rights of the contributory, will be prejudiced by a voluntary winding-up.

Power of  
court to adopt  
proceedings of  
voluntary  
winding-up.

171. Where a company is being wound up voluntarily, and an order is made for winding-up by the court, the court may, if it thinks fit, by the same or any subsequent order, provide for the adoption of all or any of the proceedings in the voluntary winding-up.

#### WINDING-UP SUBJECT TO SUPERVISION OF COURT.

Power to  
order  
winding-up  
subject to  
supervision.

172. When a company has by special or extraordinary resolution resolved to wind up voluntarily, the court may make an order that the voluntary winding-up shall continue but subject to such

supervision of the court, and with such liberty for creditors, contributories, or others to apply to the court, and generally on such terms and conditions as the court thinks just.

173. A petition for the continuance of a voluntary winding-up subject to the supervision of the court shall, for the purpose of giving jurisdiction to the court over actions, be deemed to be a petition for winding-up by the court.

Effect of petition for winding-up subject to supervision.

174. The court may, in deciding between a winding-up by the court and a winding-up subject to supervision, in the appointment of liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Court may have regard to wishes of creditors and contributories.

175. (1) When an order is made for a winding-up subject to supervision, the court may by the same or any subsequent order appoint any additional liquidator.

Power for court to appoint or remove liquidators.

(2) A liquidator appointed by the court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if he had been appointed by the company.

(3) The court may remove any liquidator so appointed by the court or any liquidator continued under the supervision order, and fill any vacancy occasioned by the removal, or by death or resignation.

176. (1) Where an order is made for a winding-up subject to supervision, the liquidator may, subject to any restrictions imposed by the court, exercise all his powers, without the sanction or intervention of the court, in the same manner as if the company were being wound up altogether voluntarily.

Effect of supervision order.

(2) A winding-up subject to the supervision of the court is not a winding-up by the court for the purpose of the following provisions of this Act, namely those contained in sections *one hundred and twenty-three, one hundred and twenty-four, one hundred and twenty-five* except sub-section (10) thereof, *one hundred and twenty-eight to one hundred and thirty-nine* inclusive, *one hundred and fifty* and *one hundred and fifty-two*, but, save as aforesaid an order for winding-up subject to supervision shall for all purposes, including the staying of actions and other legal proceedings, the making and enforcement of calls, and the exercise of all other powers, be deemed to be an order for winding-up by the court.

#### SUPPLEMENTAL PROVISIONS.

177. All costs, charges, and expenses properly incurred in any winding-up of a company, including the remuneration of the liquidator or liquidators, shall, unless the court otherwise orders, be payable out of the assets of the company and in priority to all other claims.

Costs of winding-up.

178. (1) In the case of a voluntary winding-up every transfer of shares except transfers made to or with the sanction of the liquidator, and every alteration in the status of the members of the company, made after the commencement of the winding-up, shall be void.

Voidance of transfers after commencement of winding-up.

(2) In the case of a winding-up by or subject to the supervision of the court, every disposition of the property (including rights of action) of the company, and every transfer of shares, or alteration in the status of its members, made after the commencement of the winding-up, shall, unless the court otherwise orders, be void.

Debts of all descriptions to be proved.

179. In every winding-up (subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law for the time being relating to insolvency) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

Application of Insolvency Law in winding-up of insolvent companies.

180. In the winding-up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law relating to insolvency, with respect to the estates of persons sequestrated; and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding-up, and make such claims against the company as they respectively are entitled to by virtue of this section.

Preferential payments in winding-up.

181. (1) In a winding-up there shall be paid in priority to all other debts—

- (a) all taxes due and payable to the Crown;
- (b) all assessment rates, erf taxes, sanitary, water, and other like charges payable to any local authority by the company at any time within twelve months ending the thirtieth day of June next before the date hereinafter mentioned in this section;
- (c) the wages or salary of any clerk or servant in respect of services rendered to the company during two months next before the date hereinafter mentioned in this section;
- (d) the wages of any workman or labourer not exceeding fifty pounds whether payable for time or for piece work in respect of services rendered to the company during the two months immediately preceding the said date:

Provided that where any labourer or workman has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the period of hiring, he shall have priority in respect of the whole of such sum, or a part thereof, as the court may decide to be due under the contract, proportionate to the time of service up to the said date;

(e) unless the company is being wound up voluntarily merely for the purpose of reconstruction or of amalgamation with another company all amounts (not exceeding in any individual

case two hundred and fifty pounds) due in respect of compensation under the Workmen's Compensation Act 1907 or any amendment thereof the liability wherefor accrued before the said date, subject nevertheless to the provisions of section *twenty-nine* of the said Act or any amendment of such section.

(2) The debts described in sub-section (1) shall

(a) rank equally between themselves and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of mortgagees and holders of debentures created by the company, and be paid accordingly out of any property comprised in or subject to the document securing the claims of the mortgagees or debenture holders.

(3) Subject to the retention of such sums as may be necessary for the costs charges and expenses of winding-up, all the debts described in sub-section (1) shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) The date hereinbefore in this section mentioned is

(a) in the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order; and

(b) in any other case the date of the commencement of the winding-up.

(5) The provisions of this section shall apply in the winding-up of every company, anything to the contrary in Chapter IV of the Master and Servants Law 1880 notwithstanding.

182. (1) Every disposition of its property which would, if made by an individual, be deemed in the event of his insolvency to have been void or voidable or an undue preference shall, if made by a company, be deemed, in the event of its being wound up and then insolvent, void or voidable or an undue preference (as the case may be) and the provisions of the law for the time being relating to insolvency shall *mutatis mutandis* be applied to any such disposition.

Voidable and undue preferences.

(2) For the purpose of this section the presentation of a petition for winding-up in the case of a winding-up by or subject to the supervision of the Court, and a resolution for winding-up in the case of a voluntary winding-up, shall be deemed to correspond with the sequestration order in the case of an individual.

(3) Any cession or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

183. In the case of a winding-up of any insolvent company, the provisions of the law for the time being relating to insolvency shall *mutatis mutandis* be applied in respect of any matter not specially provided for in this Act.

Insolvency Law to be applied *mutatis mutandis* to insolvent companies where no special provision in this Act.

Voidance of certain attachments executions, etc.

General scheme of liquidation may be sanctioned.

184. Where any company is being wound up by or subject to the supervision of the court, any attachment or execution put in force against the estate or effects of the company after the commencement of the winding-up shall be void to all intents,

185. (1) The liquidator may with the sanction following (that is to say)—

(a) in the case of a winding-up by the court, with the sanction either of the court or of the committee of inspection ;

(b) in the case of any winding-up subject to supervision, with the sanction of the court ; and

(c) in the case of a voluntary winding-up, with the sanction of an extraordinary resolution of the company ;

do the following things or any of them—

(i) Pay any classes of creditors in full ;

(ii) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable ;

(iii) Compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding-up of the company, upon such terms as may be agreed, and take any security for the discharge of such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) In the case of a winding-up by the court the exercise by the liquidator of the powers of this section shall be subject to the control of the court, and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.

Power of Court to assess damages against delinquent promoters directors, etc.

186. (1) Where in the course of winding up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager or liquidator, or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the court may, on the application of the Master, or of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator, or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retention, misfeasance, or breach of trust as the court thinks just.



(2) This section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

187. If any director, officer, or contributory of any company being wound up destroys, mutilates, alters, or falsifies any books, papers, or securities, or makes or is privy to the making of a false or fraudulent entry in any register, book of account, or document belonging to the company with intent to defraud or deceive any person, he shall be guilty of an offence and liable to imprisonment without the option of a fine for a period not exceeding seven years.

Penalty for falsification of books, etc.

188. (1) If it appears in the course of winding-up of a company, that any past or present director, manager, officer or member of the company has been guilty of an offence in relation to the company for which he is criminally responsible, the liquidator shall cause all the facts known to him which appear to constitute the offence to be laid before the Attorney-General, and, in the event of the Attorney-General certifying that he declines to prosecute, the liquidator may, subject to the provisions of section *one hundred and twenty-seven*, institute and conduct a private prosecution for such offence.

Prosecution of delinquent directors, etc.

(2) The court may, upon application by the liquidator, order the whole or any portion of the costs and expenses incidental to such private prosecution to be paid out of the assets of the company in priority to all other liabilities.

189. (1) Where by this Act the court is authorized, in relation to winding-up, to have regard to the wishes of creditors or contributories as proved to it by any sufficient evidence, the court may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held, and conducted in such manner as the court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the court.

Meetings to ascertain wishes of creditors or contributories.

(2) In the case of creditors regard shall be had to the value of each creditor's debt.

(3) In the case of contributories regard shall be had to the number of votes conferred on each contributory by the articles.

190. Where any company is being wound up all books and papers of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

Books of company to be evidence.

191. After an order has been made for winding-up by or subject to the supervision of the court, the court may make such order for inspection by creditors and contributories of the company of its books and papers as the court thinks just, and any books and papers in the possession of the company may be inspected by creditors and contributories accordingly, but not further or otherwise.

Inspection of books.

192. (1) When any company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows (that is to say) :—

Disposal of books accounts and documents of company.

(a) In the case of a winding-up by or subject to the supervision of the court, in such way as the court directs ;

(b) in the case of a voluntary winding-up, in such way as the company by extraordinary resolution directs.

(2) After five years from the dissolution of the company, no responsibility shall rest on the company, or the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of the same not being forthcoming to a person claiming to be interested therein.

Power of Court to declare dissolution of company void.

193. (1) When a company has been dissolved, the court may, at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the court to be interested, make an order, upon such terms as the court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

(2) It shall be the duty of the person on whose application the order was made, within seven days after the making of the order, to lodge with the Registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Information as to pending liquidations.

194. (1) Where a company is being wound up, if the winding-up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding-up is concluded, transmit to the Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the liquidator or of the Master.

(3) If a liquidator fails to comply with the requirements of this section he shall be liable to a fine not exceeding fifty pounds for each day during which the default continues.

(4) If it appears from any such statement or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company, which have remained unclaimed or undistributed for six months after the date of their receipt, the liquidator shall forthwith pay that money to the Master, who shall deposit the same in the Guardian's Fund referred to in the Administration of Estates Proclamation 1902 or any amendment thereof, and the liquidator shall be entitled to a certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof.

(5) Any person claiming to be entitled to any money paid to the Master in pursuance of this section may apply to him for payment of the same, and the Master may, on a certificate by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due.

(6) Any person dissatisfied with the decision of the Master in respect to any claim made in pursuance of this section may appeal to the court.

195. (1) All magistrates and such other persons as the court may appoint shall be commissioners for the purpose of taking evidence under this Act in cases where a company is wound up in any part of the Colony, and the court may refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed commissioner, although he is out of the jurisdiction of the court which made the winding-up order.

Special Commissioners for taking evidence.

(2) Every commissioner shall, in addition to any powers which he might lawfully exercise as magistrate, have in the matter so referred to him, the same powers of summoning and examining witnesses, of requiring the production or delivery of documents, of punishing defaults by witnesses, and of allowing costs and expenses to witnesses, as the court which made the winding-up order.

(3) The examination so taken shall be returned or reported to the court which made the order in such manner as that court directs.

#### REMOVAL OF DEFUNCT COMPANIES FROM REGISTER.

196. (1) When the Registrar has reasonable cause to believe that a company is not carrying on business or is not in operation, he shall send to the company by post a letter inquiring whether it is carrying on business or is in operation.

Registrar may strike defunct company off register.

(2) If the Registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company a registered letter referring to the first letter and stating that no answer thereto has been received, and that if an answer is not received to the second letter within one month from the date thereof a notice will be published in the *Gazette* with a view to striking the name of the company off the register.

(3) If the Registrar either receives an answer from the company to the effect that it is not carrying on business or is not in operation, or does not within one month after sending the second letter receive any answer, he may publish in the *Gazette* and send to the company by post a notice that at the expiration of three months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound up, the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months after notice by the Registrar demanding the returns has been sent by post to the company, or to the liquidator at his last known place of business, the Registrar may publish in the *Gazette* and send to the company a like notice as is provided in the last preceding subsection.

(5) At the expiration of the time mentioned in the notice the Registrar may unless cause to the contrary is previously shown by the company, strike its name off the register and shall publish notice thereof in the *Gazette*, and on the publication of this notice the company shall be dissolved; provided that the liability (if any) of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register the court, on the application of the company or member or creditor may, if satisfied that the company was at the time of the striking off carrying on business or was in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off; and the court may, by the order, give such directions and make such provision as seem just for placing the company and all other persons in the same position as nearly as may be, as if the company had not been struck off.

(7) A letter or notice under this section shall be addressed to the company at its registered office, or, if no office has been registered to the care of some director or officer of the company, or, if there is no director or officer of the company whose name and address are known to the Registrar, may be sent to each of the persons who subscribed the memorandum addressed to him at the address mentioned in the memorandum.

Orders to be transmitted to Master and registering officers.

197. (1) Whenever under this Act any order is made by the court in connection with the winding-up or dissolution of a company, a copy of such orders shall, as soon as may be after the making thereof, be transmitted by the registrar of the court which made the order to the Master.

(2) Whenever any such order affects the title to immovable property or mining title a copy of the order shall, as soon as may be after the making thereof, be transmitted by the registrar of the court which made the order to the registrar of deeds, the registrar of mining titles, and to every registering officer charged with the duty of registering title to immovable property or mining title in this Colony.

## CHAPTER V.

### FOREIGN COMPANIES.

Requirements as to foreign companies.

198. (1) Every foreign company (other than a banking company or insurance company as hereinafter defined) which, at the commencement of this Act, has a place of business in this Colony and every foreign company which, after such commencement, establishes a place of business in this Colony shall within three months after the commencement of this Act, or within one month after the establishment of the place of business, as the case may be, lodge with the Registrar

\*(a) a certified copy of the charter, statutes, or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not in the English or the Dutch language, a certified translation thereof ;

(b) a list of the directors of the company ;

(c) the names and addresses of some one or more persons resident in this Colony authorized to accept on behalf of the company service of process and any notices required to be served on the company ;

and in the event of any alteration being made in any such instrument or in the directors, or in the names or addresses of any such persons as aforesaid, the company shall within three months of such alteration lodge with the Registrar a notice of the alteration.

(2) Every foreign company to which this section applies shall, in every year, lodge with the Registrar such a statement as would, if it were a company registered under Chapter I and having a share capital, be required under Chapter II to be included in the annual list and summary.

(3) Every foreign company to which this section applies and which uses the word "Limited" as part of its name shall

(a) in every prospectus inviting subscriptions for its shares or debentures in this Colony, state the foreign country in which the company is registered or incorporated ; and

(b) conspicuously exhibit, outside all its places of business in this Colony, the name of the company and the foreign country in which the company is registered or incorporated ; and

(c) have the name of the company and of the foreign country in which the company is registered or incorporated, mentioned in legible characters in all billheads and letter paper, and in all notices, advertisements and other official publications of the company.

(4) If any foreign company to which this section applies fails to comply with any requirement of this section, the company, and every officer or agent of the company in this Colony shall be liable to a fine not exceeding fifty pounds or, in the case of a continuing default, five pounds for every day during which the default continues.

(5) For the purposes of this section

"banking company" shall mean a company which by reason of the business carried on by it (but so far only as concerns such business) is subject to the provisions of Law No. 2 of 1893 or any amendment thereof ;

"insurance company" shall mean a company which by reason of the business carried on by it (but so far only as concerns such business) is subject to the provisions of Law No. 8 of 1898 or any amendment thereof ;

"certified" shall mean certified in the manner prescribed by the Minister to be a true copy or a correct translation ;

\* For regulations see Govt. Notice No. 1485 of 1909 (*Gazette*, 31/12/09).

“place of business” shall mean any place where the company transacts, or holds itself out as transacting business, and shall include a share transfer or share registration office.

(6) There shall be paid to the Registrar for registering every document required by this section to be lodged with him the prescribed fee.

## CHAPTER VI. APPLICATION OF ACT.

199. (1) This Act (other than Chapters V and VII thereof) shall apply

(a) to every existing company; and

(b) to every company, not being a foreign company, which was incorporated under Law No. 6 of 1874 and appears in the books of the Registrar's office at the commencement of this Act as so incorporated,

in the same manner as if the company had been formed and registered under this Act as a limited company and every company to which this Act is so applied shall be deemed to be duly incorporated and registered under this Act:

Provided that

(a) reference in this Act, express or implied, to the date of registration, shall be construed as a reference to the date at which the company was registered under the Limited Liability Companies Laws or (as the case may be) was incorporated under Law No. 6 of 1874;

(b) nothing in this Act contained shall affect any right or privilege acquired, or liability incurred, whether by agreement or otherwise before the commencement of this Act, by any such company or affect the validity of the articles of such a company which were in force at such commencement, save in so far as those articles may be affected by sub-section (2) of this section;

(c) the provisions of this Act relating to the winding-up of companies by the court shall not apply to any such company if it has commenced to be wound up by the court before the commencement of this Act, but the winding-up of any such company by the court shall be continued as if this Act had not passed.

(2) Those provisions of the articles of any existing company which should have been contained in a memorandum of association if the company had been formed under this Act, shall, for the purposes of this Act, be deemed to be the memorandum of association of the company, and shall be subject in all respects to the provisions of this Act relating to a memorandum of association.

200. Every foreign company which was incorporated under Law No. 6 of 1874 and appears at the commencement of this Act in the books at the Registrar's office as still so incorporated shall continue to be a company incorporated in this Colony, and shall further be subject to all the provisions of Chapters V and VII of this Act.

Application of Act to companies formed under Limited Liability Companies Laws and certain other companies.

Application of Act to foreign companies incorporated under Law No. 6 of 1874.

201. Where a company or a foreign company is subject to the provisions of

- (a) Law No. 2 of 1893 or any law which for the time being is specially applicable to banking companies ; or
- (b) Law No. 8 of 1898 or any law which for the time being is specially applicable to life, fire, or accident insurance companies or societies,

the provisions of this Act which would otherwise apply in respect of such company shall not apply wherever those provisions would be inconsistent with any such law.

202. (1) Nothing in this Act contained shall apply to co-operative agricultural societies as defined in the Co-operative Agricultural Societies Act 1908 or any amendment thereof save as is otherwise provided in section *twenty-four* of that Act.

(2) The provisions of this Act shall not be construed as applying to a building society, a friendly society, or a trade union, unless the society or union is, at the commencement of this Act, registered under the Limited Liability Companies Laws :

Provided that

(i) any society or union in this sub-section mentioned shall, until the enactment of any law providing for its registration and management, be permitted to register under Chapter I upon complying with the provisions of that Chapter in respect of registration ;

(ii) every such society or union, unless so registered, shall be deemed for the purposes of Chapter VII, to be an unregistered company.

(3) In this section

“ building society ” shall, until a law is in force in this Colony regulating building societies, mean a society of persons, formed for the sole purpose of raising by the subscription of its members, a fund out of which advances may be made to members upon the security of immovable property and, when any such law is in force, shall mean a building society as there in defined ;

“ friendly society ” shall, until a law is in force in this Colony regulating friendly societies, mean a society of persons formed solely or mainly for the purpose of raising by the voluntary subscriptions of its members, with or without the aid of donations, a fund

(a) for the relief or maintenance of members and their relatives during minority, old age, widowhood, sickness, or other infirmity, mental or bodily, or for the endowment at any age of members or their nominees ;

(b) providing medical attendance and procuring medicines and medical requirements for such members or relatives ;

(c) insuring a sum of money to be paid on the birth of a member's child or on the death of a member or for the funeral expenses of the husband, wife, child, or relative of a member ;

and, when any such law is in force, shall mean a friendly society as therein defined ;

Restricted application of Act in case of banking and insurance companies.

Exemption from Act of co-operative agricultural societies, building societies, friendly societies, and trade unions.

“trade union” shall mean a trade union as defined by the Industrial Disputes Prevention Act 1909 or any amendment thereof.

## CHAPTER VII.

### WINDING-UP OF UNREGISTERED COMPANIES.

Winding-up  
of unregis-  
tered  
companies.

203. Subject to the provisions of this Chapter any company association syndicate or partnership having a place of business in this Colony, which consists of more than seven members and is not a company to which Chapters I, II, and III apply, may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such a company, association, syndicate or partnership (hereinafter referred to as an “unregistered company”), with the following exceptions and additions:—

- (i) An unregistered company shall, for the purpose of determining the court having jurisdiction in the matter of the winding-up, be deemed to be registered in that district of the Colony where its principal place of business is situate; or if it has a principal place of business in more than one district of the Colony, then in each district of the Colony where it has a principal place of business; and the principal place of business situate in that district of the Colony in which proceedings are being instituted shall, for all the purposes of the winding-up be deemed to be the registered office of the company;
- (ii) no unregistered company shall be wound up under this Act voluntarily or subject to supervision;
- (iii) The circumstances in which an unregistered company may be wound up are as follows (that is to say):—
  - (a) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding-up its affairs;
  - (b) if the company is unable to pay its debts;
  - (c) if the Court is of opinion that it is just and equitable that the company should be wound up;
- (iv) An unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts
  - (a) if a creditor, by cession or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary or some director, manager, or principal officer of the company, or by otherwise serving in such manner as the court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor;
  - (b) if any action or other proceeding has been instituted against any member for any debt or demand due, or



claimed to be due, from the company, or from him in his character of member, and notice in writing of the institution of the action or proceeding having been served on the company by leaving the same at its principal place of business, or by delivering it to the secretary, or some director, manager, or principal officer of the company, or by otherwise serving the same in such manner as the court may approve or direct, the company has not within ten days after service of the notice paid, secured or compounded for the debt or demand, or procured the action or proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the action or proceeding, and against all costs, damages, and expenses to be incurred by him by reason of the same ;

- (c) if execution or other process issued on a judgment decree or order obtained in any court in favour of a creditor against the company, or any member thereof as such, or any person authorized to be sued as nominal defendant on behalf of the company, is returned unsatisfied by the sheriff or messenger with the endorsement that he has not found sufficient assets to satisfy the judgment, decree, or order, or that any assets found did not, upon sale, satisfy the execution or other process ;
- (d) if it is otherwise proved to the satisfaction of the court that the company is unable to pay its debts.

204. (1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs and expenses of winding-up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

Contribu-  
tories in  
winding-up of  
unregistered  
company.

(2) In the event of the death or insolvency of any contributory, the provisions of this Act with respect to the legal representatives, heirs, and legatees of deceased contributories and to the trustees of insolvent contributories shall apply.

205. The provisions of this Act with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding-up and before the making of a winding-up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

Power of  
court to stay  
or restrain  
proceedings.

206. Where an order has been made for winding-up an unregistered company, no action or proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.

Actions  
stayed on  
winding-up  
order.

Directions as to property in certain cases.

207. If an unregistered company has no power to sue and be sued in a common name, or if for any reason it appears expedient, the court may by the winding-up order, or by any subsequent order direct that all or any part of the property, immovable and movable (including rights of action) belonging to the company, or to trustees on its behalf, is to vest in the liquidator by his official name, and thereupon the property or the part thereof specified in the order shall vest accordingly; and the liquidator may, after giving such indemnity (if any) as the court may direct, bring or defend in his official name any action or other legal proceeding relating to that property, or necessary to be brought or defended for the purpose of effectually winding-up the company and recovering its property.

Provisions of this chapter cumulative.

208. The provisions of this Chapter with respect to unregistered companies shall be deemed to be in addition to and not in restriction of any provisions hereinbefore in this Act contained with respect to winding-up companies by the court, and the court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding-up companies registered under Chapter I; but an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Chapter.

## CHAPTER VIII.

### MISCELLANEOUS PROVISIONS.

Amalgamation schemes to be submitted to Minister.

209. (1) Three months prior to the date when any amalgamation scheme or portion thereof is to be submitted to any general meeting of a company that scheme shall be submitted to the Minister, and, unless it has been so submitted, the Registrar shall not register in his office any document which gives effect to the scheme or to any portion thereof.

(2) For the purposes of this section an amalgamation scheme shall mean a scheme under which any one or more companies will be dissolved and the undertaking or undertakings of the dissolved company or companies transferred to a new company, or to another company then existing with or without a change in the name of that company, or a scheme under which the entire undertaking and assets of any company are transferred to another company.

Power of court to grant relief in certain cases.

210. If, in any proceeding under this Act against a director of a company for negligence or breach of trust, it appears to the court hearing the case that the director is or may be liable in respect of the negligence or breach of trust, but has acted honestly and reasonably, and ought fairly to be excused for the negligence or breach of trust, that court may relieve him either wholly or partly from his liability, on such terms as the court may think proper.

211. (1) There shall be paid in respect of the several matters mentioned in the Second Schedule to this Act or in that Schedule as altered or added to under the powers of this section the several fees specified in such Schedule or in the alteration or addition thereto. All such fees shall be paid by means of revenue stamps which shall be duly defaced by the officer concerned with the particular matter.

Prescribed fees, forms, and alterations thereof.

(2) The forms set forth in the Third Schedule to this Act, or forms as near thereto as the circumstances admit, shall be used in all matters to which those forms refer.

✕ †(3) The Minister may from time to time alter or add to the tables in the Second Schedule to this Act, but so that he does not increase the amount of any specific fee payable in accordance with that Schedule, and may alter or add to any of the forms in the Third Schedule to this Act or Table A.

The Minister may further from time to time make or alter a table of fees which shall be payable to a liquidator or special manager as remuneration and such a table of fees, when so made or altered, shall be deemed to form part of the Second Schedule to this Act.

(4) Any such table and form, as altered, and any added form shall be published in the *Gazette*, and henceforth shall have the same force and effect as if it were included in one of the Schedules to this Act but no alteration in, or addition to, Table A shall affect any company registered before the publication of the alteration or addition,\* as respects that company, any portion of Table A which applies to it.

(5) Every alteration and addition made under the powers of this section shall be laid on the tables of both Houses of Parliament within seven days after the date of its publication in the *Gazette*, if Parliament be then in session, or if Parliament be not then in session, within seven days after the commencement of its next ensuing session.

212. (1) The judges of the Supreme Court, may, from time to time, make, alter, or rescind rules concerning the procedure to be followed with respect to matters in which the court is empowered under this Act to exercise jurisdiction.

Power to judges to make rules.

(2) Every such rule and any alteration or rescission thereof shall be submitted to the Governor for approval, and if approved, the rule or the alteration or rescission thereof shall, when published in the *Gazette*, have full force and effect.

(3) The provisions of sub-section (5) of the last preceding section shall *mutatis mutandis* apply to every such rule, whether in regard to the making, the alteration, or the rescission thereof.

213. (1) For the purpose of the registration of companies under this Act, there shall be an office in Pretoria.

Office for registration of companies.

(2) The Governor may, from time to time, appoint an officer who shall be styled "Registrar of Companies" and such other

† For alterations Third Schedule see Govt. Notices Nos. 1486 of 1909 (*Gazette*, 31/12/09), and 462 of 1910 (*Gazette*, 29/4/10, additions to Second Schedule).

\* The words "or shall repeal" appear to have been inadvertently omitted immediately before the words "as respects that company."

officers and clerks as the Minister may think necessary for carrying on the registration of companies under this Act or for effectually exercising any other powers or jurisdiction or performing any duties assigned by this Act or any amendment thereof to the Registrar; and may from time to time make, alter, or rescind regulations, not inconsistent with this Act or any law for the time being relating to the public service, prescribing the duties of the Registrar.

(3) The office in existence at the commencement of this Act for registering companies shall be deemed to have been established under this section, and the registers of companies kept in such existing office shall be deemed to form part of the registers to be kept under this Act.

(4) Any person may inspect the documents kept by the Registrar on payment of the prescribed fees; and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or part of any other document, to be certified by the Registrar, on payment for the certificate, certified copy, or extract, of the prescribed fee.

Service of documents

214. Any notice, order, or other document which by this Act may be or is required to be served upon a company may be served by leaving the same at, or sending it by prepaid registered post to

(a) the registered office, in the case of a company registered under Chapter I or of an existing company;

(b) one of the persons at the address lodged with the Registrar in respect of such person, in the case of a foreign company;

(c) the principal place of business in this Colony, in the case of an unregistered company.

Judicial notice of signature officers.

215. (1) In all proceedings under this Act, all courts, judges, and persons acting judicially, and all officers, judicial or ministerial, of any court, or employed in enforcing the process of any court, may take judicial notice of the signature of any officer of the Supreme Court, the Witwatersrand High Court, or any Circuit Court, and shall take judicial notice of the official seal or stamp of any of such courts appended to or impressed on any document, made, signed, or issued under this Act or an official copy thereof.

(2) All courts, judges, commissioners, and persons acting judicially may take judicial notice of the seal, or stamp, or signature appended or subscribed (as the case may be) to an affidavit lawfully sworn or solemn declaration lawfully made for the purposes of this Act.

Penalties for false statements and false oaths.

216. (1) If any person in any statement, return, report, certificate, balance-sheet, or other document required by or for the purposes of any of the provisions of this Act wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment without the option of a fine for a period not exceeding one year.

(2) If any person, on examination on oath authorized under this Act, or in any affidavit solemn declaration or deposition in or

about any matter arising under this Act, wilfully and corruptly gives false evidence, he shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

217. Any person or persons trading or carrying on business under a name or title of which the word "Limited" is the last word shall, unless duly incorporated with limited liability, be liable to a fine not exceeding five pounds for every day upon which that name or title has been used.

Penalty for improper use of word "Limited."

218. Whenever under this Act a company is liable to any penalty for a default or offence, proceedings may be instituted for that default or offence against any director, manager, secretary, or other officer of the company, and the court having jurisdiction in respect of the default or offence may convict and sentence therefor any person against whom the proceedings are so instituted, unless he shall satisfy that court that the default or offence was made or committed without his knowledge, authority, or permission.

Officers liable for defaults by company.

219. Every company or person charged with a default or offence under this Act may be prosecuted before the court of resident magistrate having jurisdiction at the place where the default is alleged to have been made or the offence to have been committed; and if the default or offence is punishable by a fine, that court of resident magistrate shall have special jurisdiction to impose the maximum fine prescribed or, in a case of a continuing default or offence, the aggregate amount of the maximum fines.

Offences and penalties.

220. Whenever under the provisions of this Act any fine is imposed for a default or offence, and the person convicted does not forthwith pay the fine, the court imposing the same may, without prejudice to any steps that may be lawfully taken for levying such fine by distress and sale of movable property belonging to that person, order the imprisonment of that person for a period not exceeding one month if the fine does not exceed five pounds, for a period not exceeding three months if the fine exceeds five pounds and does not exceed fifty pounds, and for a period not exceeding one year if the fine exceeds fifty pounds, and a court of resident magistrate imposing the fine shall have special jurisdiction to impose, in default of payment thereof, the maximum period of imprisonment.

Imprisonment in default of payment of fines.

221. This Act may be cited for all purposes as the Companies Act 1909 and shall come into operation on the first day of January 1910.

Title and date of operation

## FIRST SCHEDULE.

## LAWS AND RESOLUTIONS REPEALED.

Number and Year.	Title (if any) or Subject.	Extent of Repeal.
Law No. 5 of 1874 ...	The Limited Liability Companies Law	The whole.
Law No. 6 of 1874 ...	For the incorporation of companies	The whole.
Executive Council Resolution No. 786 of 1889	Rules respecting the registration of home companies whose statutes contain provisions in conflict with the laws and interests of the country	The whole.
Executive Council Resolution No. 746 of 1889	No registration of foreign companies unless incorporated according to law.	The whole.
Law No. 1 of 1891 ...	Supplement to Law No. 5 of 1874 with reference to the limiting of the liability of the members of certain companies	The whole.
Executive Council Resolution No. 897 of 1892	Issue of shares to bearer by companies with limited liability	The whole.
First Volksraad Resolution No. 1331 of 1892	—	So much as gave authority to the Executive Council to pass the resolution No. 897 of 1892.
Second Volksraad Resolution No. 856 of 1893	Amendment of Art. 17 of Law No. 5 of 1874	The whole.
Executive Council Resolution embodied and adopted by lastnamed Second Volksraad Resolution	Amendment of Art. 17 of Law No. 5 of 1874	The whole.
First Volksraad Resolution No. 1219 of 1893	Confirmation of Second Volksraad Resolution No. 856 of 1893	The whole.
Law No. 1 of 1894 ...	On the liquidation of companies	The whole.
Second Volksraad Resolution No. 98 of 1894	Extension of Executive Council Resolution No. 897 of 1892 to companies incorporated and registered under Law No. 6 of 1874	The whole.
First Volksraad Resolution No. 275 of 1894	Noting and accepting Second Volksraad Resolution No. 89 of 1894	The whole.
Law No. 22 of 1894	Amendment of certain provisions of laws become necessary in consequence of First Volksraad Resolution Art. 1213 of 1893 in the matter of the responsibility of head officials	Article <i>twenty-one</i> .
Ordinance No. 56 of 1903	Societies and Associations Incorporation Ordinance 1903	The whole.
Ordinance No. 30 of 1904	The Limited Liability Companies Law Amendment Ordinance 1904	The whole.

## \* SECOND SCHEDULE.

## First Table.

TABLE OF FEES TO BE PAID BY A COMPANY (OTHER THAN A FOREIGN COMPANY) UNDER THIS ACT.

	£	s.	d.
(1) For registration of original memorandum of association ... ..	1	0	0
(2) For registration of an altered memorandum of association or a substituted memorandum and articles of association and the Order of Court confirming the same ... ..	0	10	0
(3) For registration of reduction of the capital of a Company and the Order of Court confirming the same ... ..	0	10	0
(4) For registration of change of name of a Company ... ..	0	10	0
(5) For registering any document hereby required or authorized to be registered other than the above ... ..	0	5	0
(6) For making any record of any fact hereby authorized or required to be recorded by the Registrar ... ..	0	5	0
(7) * Upon lodging annual list and summary pursuant to section twenty-six ... ..	0	5	0
(8) * Upon lodging report pursuant to section sixty-two... ..	0	5	0
(9) * Upon lodging consent of director pursuant to section seventy (1)... ..	0	1	0
(10) * Upon lodging a list of directors pursuant to section seventy (2)... ..	0	2	0
(11) * Upon lodging copy of register of directors or managers pursuant to section seventy-three ... ..	0	2	0
(12) * Upon notification of change among the directors or managers referred to in (11) ... ..	0	2	0
(13) * Upon lodging a statement in lieu of a prospectus pursuant to section eighty ... ..	0	5	0
(14) * Upon lodging return of allotments pursuant to section eighty-six ... ..	0	5	0

## Second Table.

TABLE OF FEES TO BE PAID BY A FOREIGN COMPANY UNDER THIS ACT.

	£	s.	d.
(1) For registration of the charter, statutes, or memorandum and Articles of the Company, or other instrument constituting or defining the Constitution of the Company ... ..	1	0	0
(2) For registration of any alteration in any such instrument ... ..	0	10	0
(3) Upon filing annual statement mentioned in sub-section (2) of section one hundred and ninety-eight ... ..	0	5	0

## Third Table.

## MISCELLANEOUS FEES.

TABLE OF FEES TO BE PAID IN RESPECT OF ANY COMPANY UNDER THIS ACT.

	£	s.	d.
(1) For any certificate issued by the Registrar ... ..	0	7	6
(2) For inspection of any documents filed with the Registrar ... ..	0	2	6
(3) For inspection of the registers kept by the Registrar ... ..	0	1	0
(4) For altering address in register ... ..	0	5	0

\* See (1925) T.P.O. 133  
THIRD SCHEDULE.

## Form A.

## MEMORANDUM OF ASSOCIATION OF A LIMITED COMPANY.

1. The name of the Company is "The Derdepoot (Deep) Mining Company Limited".
2. The registered office of the Company will be situate in the Transvaal.
3. The objects for which the company is established are "To purchase take on lease or otherwise acquire any mines mining rights and metalliferous land in The Transvaal and any interest therein to explore work exercise develop and turn to account the same and to do all such other things as are incidental or conducive to the attainment of the above objects".
4. The liability of the members is limited.
5. The share capital of the company is one hundred thousand pounds divided into one hundred thousand shares of one pound each.

\* Added by Govt. Notice No. 462 of 1910 (Gazette, 29/4/10).

We the several persons whose names and addresses are subscribed are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names addresses and descriptions of subscribers.	No. of shares taken by each subscriber.
1. John Jones of merchant	200
2. Andries de Villiers of farmer	25
3. Peter Grant of prospector	30
4. Jacobus Steenkamp of general agent	40
5. James Murphy of financier	15
6. Paulus Oosthuizen of mining engineer	5
7. William Smith of attorney	10
Total shares taken ... ..	325

Dated the            day of            19  
Witnesses to the above signatures :

A. B. Church Street Pretoria.  
C. D. Market Street Pretoria.

*Form B.*

**MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY HAVING A SHARE CAPITAL.**

*Memorandum of Association.*

- 1st. The name of the company is "The Patent Stereotype Company".
- 2nd. The registered office of the company will be situate in Johannesburg.
- 3rd. The objects for which the company is established are "The working of a patent method of founding and casting stereotype plates of which method John Smith of Johannesburg is the sole patentee".

We the several persons whose names are subscribed are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names addresses and description of subscribers.	No. of shares taken by each subscriber.
1. John Jones of merchant	3
2. Andries de Villiers of farmer	2
3. Peter Grant of prospector	1
4. Jacobus Steenkamp of general agent	2
5. James Murphy of financier	2
6. Paulus Oosthuizen of mining engineer	1
7. William Smith of attorney	1
Total shares taken ... ..	12

Dated the            day of            19  
Witnesses to the above signatures :

A. B. No. 67 Commissioner Street Johannesburg.  
C. D. No. 38 President Street Johannesburg.



ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING MEMORANDUM OF ASSOCIATION.

1. The share capital of the company is two thousand pounds divided into twenty shares of one hundred pounds each.

2. All the Articles of Table A in the Fourth Schedule to the Companies Act 1909 shall, so far as they are applicable to an unlimited company, be deemed to be incorporated with these articles and to apply to the company.

Names addresses and description of subscribers.

- |                           |                  |
|---------------------------|------------------|
| 1. John Jones of          | merchant.        |
| 2. Andries de Villiers of | farmer.          |
| 3. Peter Grant of         | prospector.      |
| 4. Jacobus Steenkamp of   | general agent.   |
| 5. James Murphy           | financier.       |
| 6. Paulus Oosthuizen of   | mining engineer. |
| 7. William Smith of       | attorney.        |

Dated the                      day of                      19

Witnesses to the above signatures :

- A. B. No. 67 Commissioner Street Johannesburg.  
 C. D. No. 38 President Street Johannesburg.

\* Form C.

(As required by Chapter II of the Act.)

Summary of Share Capital and Shares of the.....

Company, Limited, made up to the.....day of.....19...  
 (being the fourteenth day after the date of the first ordinary general meeting in 19...).

Nominal capital £.....divided into † .. .. .	shares of £...each.
Total number of shares taken up † to the.....day of .....	shares of £...each.
.....19... (which number must agree with the total shown in the list as held by existing members) .. .. .	
Number of shares issued subject to payment wholly in cash .. .. .	
Number of shares issued as fully paid up for a consideration other than cash .. .. .	
Number of shares issued as partly paid up to the extent of..... per share for a consideration other than cash .. .. .	
‡ There has been called up on each of.....	shares, £
‡ There has been called up § on each of .....	shares, £
‡ There has been called up on each of.....	shares, £
Total amount of calls received, including payments on application and allotment .. .. .	£
Total amount (if any) agreed to be considered as paid on.....shares which have been issued as fully paid (for a consideration other than cash).. .. .	£
Total amount (if any) agreed to be considered as paid on.....shares which have been issued as fully paid up to the extent of.....per share .. .. .	£
Total amount of calls unpaid .. .. .	£

\* Substituted by Govt. Notice No. 1486 of 1909 (*Gazette*, 31/12/09).

† The aggregate number of shares held and not the distinctive numbers must be stated and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

‡ The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferrer and not opposite that of the transferee, but the name of the transferee may be inserted in the "Remarks" column immediately opposite the particulars of each transfer.

§ When the shares are of different classes these columns may be subdivided so that the number of each class held or transferred may be shown separately.

|| Include what has been received on forfeited as well as on existing shares.

Total amount (if any) of sums paid by way of commission in respect of shares or debentures or allowed by way of discount since date of last summary .. .. .	£
Total amount (if any) paid on *..... shares forfeited .. .. .	£
Total amount of shares and stock for which share warrants are outstanding .. .. .	£
Total amount of share warrants issued and surrendered respectively since date of last summary .. .. .	£
Number of shares or amount of stock comprised in each share warrant .. .. .	£
Total amount of debt due from the company in respect of all mortgages and charges .. .. .	£

Statement in the form of a balance-sheet containing the particulars of the capital liabilities and assets of the company.

The Return must be signed at the end by the manager or secretary of the company.

Presented for filing by.....

List of persons holding shares in the.....

.....  
 Company, Limited, on the..... day of..... 19....., and of persons who have held shares therein not fully paid up at any time during the year immediately preceding the said date showing their names and addresses and an account of the shares so held.

Folio in Register Ledger containing particulars.	NAMES AND ADDRESSES.			ACCOUNT OF SHARES.				Remarks.	
	Surname.	Christian Name.	Address.	† Number of Shares held by existing Members at date of return.	§Particulars of Shares transferred during the preceding year by persons who are still Members.		§Particulars of Shares transferred during the preceding year by persons who have ceased to be Members.		
					‡ Number.	Date of Registration.	‡ Number.		Date of Registration.

\* State the aggregate number of shares forfeited (if any).  
 † When there are shares of different kinds or amounts (e.g. preference and ordinary or £10 or £5) state the numbers and nominal values separately.  
 ‡ Where various amounts have been called up or there are shares of different kinds, state them separately.  
 § Include what has been received on forfeited as well as on existing shares.

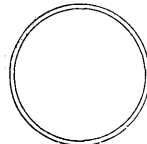
Names and addresses of the persons who are the directors of the....., Limited, on the .....day of.....19....

Names.	Addresses.

(Signature) .....  
(State whether manager or secretary).....

\* Form D.

COMPANIES ACT, 1909.



Declaration of compliance with the requisitions of the Companies Act, 1909, made pursuant to section 19 (2) of the Companies Act, 1909 (Act No. 31 of 1909), on behalf of a company proposed to be registered as the.....

Presented for filing  
by.....

I.....  
of .....  
do solemnly and sincerely declare that I am (a).....

of the .....  
Limited, and that all the requisitions of the Companies Act, 1909, in respect of matters precedent to the registration of the said company and incidental thereto have been complied with. And I make this solemn declaration conscientiously believing the same to be true.

Sworn  
Declared at.....  
the.....day of.....  
one thousand nine hundred and.....  
before me,

Justice of the Peace.

\* Added by Govt. Notice No. 1486 of 1909.

(a) Here insert "an Attorney of the Supreme Court engaged in the formation", or "a Director or Secretary named in the Articles of Association".

\* Form E.

THE COMPANIES ACT, 1909.



NOTICE OF THE SITUATION OF THE REGISTERED OFFICE OF THE .....  
.....  
..... COMPANY.....

Pursuant to section fifty-nine (2) of the Companies Act, 1909 (Act No. 31 of 1909).

This notice should be signed by the secretary of the company (vide p. 3). Notice of any change in the situation of the registered office must also be registered [vide sub-section (2) of section fifty-nine].

A penalty of £5 per day is incurred by a company for not having a registered office [vide sub-section (3) of section fifty-nine].

Presented for filing  
by.....  
.....

Notice of the Situation of the Registered Office of the.....  
.....  
.....

TO THE REGISTRAR OF COMPANIES.  
The..... Company.....

hereby give you notice, in accordance with the Companies Act, 1909 (Act No. 31 of 1909), that the registered office of the company is situated at.....

(Signature).....

Dated..... day }  
of..... 19... }

This notice should be signed by the Secretary of the Company.

\* Form F.

COMPANIES ACT, 1909.



Report pursuant to section sixty-two of the Companies Act, 1909 (Act No. 31 of 1909), of the.....

..... Limited,  
to be certified by not less than two directors, or by one director or manager whenever there is only one, and forwarded at least seven days before the statutory meeting to every member of the company; and to be filed with the Registrar forthwith after the sending thereof to the members of the company [section sixty-two (5)].

\* Added by Govt. Notice No. 1486 of 1909.

(a) The total number of shares allotted is.....  
of which.....are allotted <sup>(1)</sup>.....  
.....in consideration of.....  
.....  
and upon each of the remaining shares the sum of.....has been  
paid in cash.

(b) The total amount of cash received by the company in respect of the  
shares issued wholly for cash is £..... and on the shares issued partly  
for cash is £.....

(c) The receipts and payments of the company on capital account up to  
a date within seven days of the date of this report are as follows :—

PARTICULARS OF RECEIPTS.				PARTICULARS OF PAYMENTS.			
(2)							

Particulars concerning the balance remaining in hand.

--	--	--	--	--	--	--	--

The following is an account (or estimate) of the preliminary expenses of  
the company.

--	--	--	--	--	--	--	--

NOTE.—This form has been provided for the purpose of indicating the  
nature of the information that is required; but as the report to be filed must  
be a copy of that sent to the shareholders, all that is contained in that report  
must appear in this.

(1) Here state as “fully paid up” or “paid up otherwise than in cash to  
the extent of per share”.

(2) State whether from “shares”, “debentures”, or “other sources”.

(d) Names, addresses, and descriptions of the directors, auditors, manager (if any), and secretary of the company.

DIRECTORS.

Surname.	Christian Name.	Address.	Description.

AUDITORS.

--	--	--	--

MANAGER.

--	--	--	--

SECRETARY.

--	--	--	--

(e) Particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

We hereby certify this report.

..... }  
 ..... } Two  
 ..... } Directors.

We hereby certify that so much of this report as relates to the shares allotted by the company and to the cash received in respect of such shares and to the receipts and payments of the company on capital account is correct.

..... }  
 ..... } Auditors.

\* Form G.

COMPANIES ACT, 1909.

Consent to act as director of the.....  
 .....  
 ..... Limited,  
 to be signed and filed pursuant to section *seventy* (1) (i) of the Companies Act,  
 1909 (Act No. 31 of 1909).  
 Presented for filing  
 by.....  
 .....

TO THE REGISTRAR OF COMPANIES.  
 (a) ....., the undersigned, hereby testify (b)..... consent to act as  
 director of the.....  
 ..... Limited,  
 pursuant to section *seventy* (1) (i) of the Companies Act, 1909 (Act No. 31 of  
 1909).

† Signature.	Address.	Description.

Dated this.....of.....19...  
 (a) Here insert "I" or "we". (b) Here insert "my" or "our".  
 † If a director signs by "his agent authorized in writing", the authority must be produced  
 and a copy filed.

\* Form H.

COMPANIES ACT, 1909.

List of the persons who have consented to be directors of the.....  
 ..... Limited,  
 to be delivered to the Registrar pursuant to section *seventy* (2) of the Companies  
 Act, 1909 (Act No. 31 of 1909).  
 Presented for filing  
 by.....  
 .....

TO THE REGISTRAR OF COMPANIES.  
 (a) ....., the undersigned, hereby give you notice, pursuant to section  
*seventy* (2) of the Companies Act, 1909 (Act No. 31 of 1909), that the following  
 persons have consented to be directors of the.....  
 ..... Limited.

(a) Here insert "I" or "We".

\* Added by Govt. Notice No. 1486 of 1909.

Name.	Address.	Description.

Signature, Address, and  
Description of Applicant  
for Registration

Dated this.....day of.....19..

\* *Form J.*

THE COMPANIES ACT, 1909.

COPY OF REGISTER OF DIRECTORS OR MANAGERS OF THE.....  
.....COMPANY,  
Pursuant to section seventy-three of the Companies Act, 1909 (Act No. 31 of 1909).

Presented for filing  
by.....

This notice should be signed by the manager or secretary of the company; see page 3.

Copy of the Register of Directors or Managers of the.....  
.....Company, and of any  
changes therein.

Names.	Addresses.	Occupations.	† Changes.

(Signature).....  
Officer.....

Date.....19..

† A complete list of the existing directors or managers should always be given. A note of the changes since the last list was filed should be made in this column, e.g. by placing against a new director's name the words "in place of—", and by writing against any former director's name the words "dead", "resigned", or as the case may be.

\* Added by Govt. Notice No. 1486 of 1909.





amount of the shares so allotted .....  
 Amount " paid or due and payable on each such share .....  
 Number " shares allotted for " consideration other than cash .....  
 Nominal amount of the shares so allotted .....  
 Amount to be treated as paid on each such share .....

The consideration for which such shares have been allotted is as follows:—

Presented for filing by .....

NAMES, ADDRESSES, AND DESCRIPTIONS OF THE ALLOTTEES.

Surname.	Christian Name.	Address.	Description.	Number of Shares allotted.	
				Preference.	Ordinary.

Signature .....

\* Form M.

THE COMPANIES ACT, 1909.

NOTICE OF THE APPOINTMENT OF LIQUIDATOR OF THE .....  
 ....., LIMITED.

Pursuant to section one hundred and sixty-one (1) of the Companies Act, 1909  
 (Act No. 31 of 1909).

This notice must be filed by the liquidator within twenty-one days of his  
 appointment.

Presented for filing

by .....

To THE REGISTRAR OF COMPANIES.

I, the undersigned, .....  
 of .....  
 hereby give you notice that by ..... I have been  
 appointed liquidator of the ..... Limited.

(Signature) .....

Liquidator.

Dated the ..... day of ..... 19...

NOTE.—A similar notice is to be lodged with the Master of the Supreme  
 Court.

\* Added by Govt. Notice No. 1486 of 1909.  
 [ 2558 ]

Master's Reference No.....

\* Form N.

STATEMENT OF AFFAIRS.

(Pursuant to Section 123 of the Companies Act, 1909.)

Name of Company.....

Date of Winding-up Order.....

Name and Address of Liquidators.....

Form  
STATEMENT  
(Pursuant to Section 123 of  
the Companies Act, 1909.)  
(Title.)

" N " .  
OF AFFAIRS.  
the Companies Act, 1909.)

Statement of Affairs on the.....day of.....

.....191..., the date of the Winding-up Order.

I.—As regards

Creditors.

LIABILITIES.	£	s.	d.
Debts and Liabilities, viz. :—			
i. Unsecured creditors and claimants.			
(a) Creditors as per List " A " .. .. .			
(b) Other claims and liabilities as per List " B ", of which it is expected will rank for dividend			
ii. Secured or partly secured creditors.			
(a) Loans on debenture bonds as per List " C "			
(b) Other secured claims as per List " D " ..			
iii. Preferential creditors for rates, taxes, wages, etc., as per List " E " .. .. .			
Estimated surplus (if any) after meeting liabilities of com- pany, subject to costs of liquidation .. .. .			

This margin is reserved for binding and must not be written across.

ASSETS.	£	s.	d.
(a) Property as per List " F ", viz. :—			
(a) Cash at Bankers .. .. .			
(b) Cash in hand .. .. .			
(c) Stock-in-trade [estimated cost.....]			
(d) Machinery .. .. .			
(e) Trade fixtures, fittings, utensils, etc. ..			
(f) Investments in shares, etc. .. .. .			
(g) Loans on mortgage .. .. .			
(h) Other property .. .. .			
(b) Book debts as per List " G ", viz. :—			
Good .. .. .			
Doubtful, £			
Bad, .. £			
Estimated to produce .. .. .			
(c) Bills of exchange or other similar securities on hand as per List " H " :—			
Estimated to produce .. .. .			
(d) Unpaid calls as per List " I ", £ : s. d. ..			
Estimated to produce .. .. .			
Estimated deficiency of assets to meet liabilities, subject to costs of liquidation .. .. .			

The nominal amount of unpaid capital liable to be called up is: £ : :

which is [available to meet the above deficiency or as the case may be].

\* Added by Govt. Notice No. 1486 of 1909.

Act No. 31.]

Companies.

[A.D. 1909.

[ 2556 ]



UNSECURED CREDITORS (LIQUIDATED CLAIMS).

The names to be arranged in alphabetical order and numbered consecutively, creditors for £10 and upwards being placed first.

NOTES.—1. When there is a contra account against the creditor, less than the amount of his claim against the company, the amount of the creditor's claim and the amount of the contra account should be shown in the third column, and the balance only be inserted under the heading “ Amount of Debt ”, thus :—

	£	s.	d.
Total amount of claim .. .. .			
Less contra account .. .. .			

No such set-off should be included in List “ G ”.

2. The particulars of any Bills of Exchange and Promissory Notes held by a creditor should be inserted immediately below the name and address of such creditor.

3. The names of any creditors who are also contributories, or alleged to be contributories, of the Company, *must be shown separately and described as such at the end of the list.*

[ 2561 ]

No.	Name.	Address and Occupation.	Amount of Debt.			Date when Debt Contracted.		Consideration.
			£	s.	d.	Month.	Year.	

Signature.....

Dated .....

Act No. 31.]

Companies.

[A.D. 1909.

Form N.—List “ B ”.

OTHER UNSECURED LIABILITIES.

Full particulars of all claims and liabilities not otherwise scheduled to be given here.

No.	Name of Claimant.	Address and Occupation.	Amount of Liability.			Date when Liability Incurred.		Nature of Liability.	Whether Admitted or subject to Adjustment.	Expected to rank for Dividend.		
			£	s.	d.	Month.	Year.			£	s.	d.

Signature .....  
Dated .....

Form N.—List “ C ”.

LIST OF DEBENTURE HOLDERS.

The names to be arranged in alphabetical order and numbered consecutively. *Separate Lists* must be furnished of holders of each issue of debentures should more than one issue have been made.

No.	Name of Holder.	Address.	Amount.			Description of Assets over which Security extends.
			£	s.	d.	

Signature .....  
Dated .....

A.D. 1909.]

Companies.

[Act No. 31.

[ 2562 ]

Form N.—List “ D ”.

CREDITORS FULLY OR PARTLY SECURED, NOT INCLUDING DEBENTURE HOLDERS.

No.	Name of Creditor.	Address and Occupation.	Amount of Debt.		Date when Contracted.		Con-sidera-tion.	Particulars of Security.	Date when given.	Estimated Value of Security.		Estimated Surplus from Security.		Estimated Balance of Debt Unsecured.	
			£	s.	d.	Month.				Year.	£	s.	d.	£	s.

Signature .....  
Dated .....

Form N.—List “ E ”.

PREFERENTIAL CREDITORS FOR RATES, TAXES, SALARIES, AND WAGES.

No.	Name of Creditor.	Address and Occupation.	Nature of Claim.	Period during which Claim accrued due.	Date when due.	Amount of Claim.		Amount payable in full.		Difference ranking for Dividend.	
						£	s.	d.	£	s.	d.

Signature .....  
Dated .....

Act No. 31.]

Companies.

[A.D. 1909.

[ 2563 ]

Form N.—List “ F ”.

PROPERTY.

Full particulars of every description of property not included in any other list are to be set forth in this list :—

Full Statement and Nature of Property.	Estimated to produce.		
	£	s.	d.
(a) Cash at bankers [as per bank certificate attached] .. .. .			
(b) Cash in hand .. .. .			
(c) Stock-in-trade at .....[as per valuation attached *]			
(d) Machinery at .....[as per valuation attached *]			
(e) Trade fixtures, fittings, office furniture, utensils, etc... ..			
(f) Investments in stocks or shares, viz. †:.....			
(g) Loans for which mortgage or other security held, viz. †: .....			
(h) Other property † [not including book debts, bills of exchange, or unpaid calls], viz. : .....			
.....			

\* Valuation to be made by a sworn appraiser to the Master or other person specially approved by the Master.  
 † State particulars.

Signature .....

Dated .....

[ 2564 ]



Form N.—List “G”.

DEBTS DUE TO THE COMPANY.

The names to be arranged in alphabetical order and numbered consecutively.

NOTE.—If any debtor to the company is also a creditor, but for a less amount than his indebtedness, the gross amount due to the company and the amount of the contra account should be shown in the third column, and the balance only be inserted under the heading “Amount of Debt”, thus:—

	£	s.	d.
Due to Company .. .. .			
Less contra account .. .. .			
No such set-off should be included in List “A”.			

[ 2565 ]

No.	Name of Debtor.	Residence and Occupation.	Amount of Debt.						Folio of Ledger or other Book where Particulars to be found.	When Contracted.		Estimated to produce. £ s. d.	Particulars of any Securities held for Debt.
			Good.		Doubtful.		Bad.			Month.	Year.		
			£	s. d.	£	s. d.	£	s. d.					

Signature .....

Dated .....

Act No. 31.]

Companies.

[A.D. 1909:

Form N.—List “H”.

BILLS OF EXCHANGE, PROMISSORY NOTES, ETC., ON HAND AVAILABLE AS ASSETS.

No.	Name of Acceptor or Maker.	Address, etc.	Amount of Bill or Note.			Date when due.			Estimated to produce.			Particulars of any Property held as Security for Payment of Bill or Note.
			£	s.	d.							

Signature .....

Dated .....

Form N.—List "I".

UNPAID CALLS.

No. in Share Register.	Name of Shareholder.	Address and Occupation.	No. of Shares Held.	Amount of Calls per Share Unpaid.			Total Amount due.			Estimated to realize.		
				£	s.	d.	£	s.	d.	£	s.	d.

Signature .....

Dated .....

Form N.—List "J".

LIST OF FOUNDERS' SHARES.

Register No.	Name and Address of Shareholder.	Nominal Amount of Shares.	No. of Shares Held.	Amount per Share Called Up.			Total Amount Called Up.		
				£	s.	d.	£	s.	d.

Signature .....

Dated .....

Act No. 31.]

Companies.

[A.D. 1909.

[ 2567 ]

## Form N.—List “K”.

## LIST OF ORDINARY SHARES.

No.	Register No.	Name and Address of Shareholder.	Nominal Amount of Share.	No. of Shares Held.	Amount per Share Called Up.			Total Amount Called Up.		
					£	s.	d.	£	s.	d.

Signature .....

Dated .....

Form N.—List “L”.

LIST OF PREFERENCE SHARES.

Register No.	Name and Address of Shareholder.	Nominal Amount of Shares.			No. of Shares Held.	Amount per Share Called Up.			Total Amount Called Up.		
		£	s.	d.		£	s.	d.	£	s.	d.

Signature .....

Dated .....

[ 2569 ]

Form N.—Statement “ M ”.

DEFICIENCY ACCOUNT.

(1) Deficiency Account where winding-up order made within three years of formation of Company.

	£ s. d.			I. Expenditure in carrying on business from date of formation of company to date of winding-up order, viz. :— ..	£ s. d.																																																																																																																												
	£	s.	d.		Amount Discharged.	Due at date of Winding-up Order.																																																																																																																											
				£	s.	d.	£	s.	d.																																																																																																																								
I. Gross profit (if any) arising from carrying on business from date of formation of company to date of winding-up order (as per trading account annexed) ..				<table border="1"> <thead> <tr> <th colspan="3">GENERAL EXPENDITURE.</th> <th colspan="3">Amount Discharged.</th> <th colspan="3">Due at date of Winding-up Order.</th> </tr> <tr> <th>£</th> <th>s.</th> <th>d.</th> <th>£</th> <th>s.</th> <th>d.</th> <th>£</th> <th>s.</th> <th>d.</th> </tr> </thead> <tbody> <tr> <td>Salaries .. .. .</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Wages not charged in trading account .. .. .</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Rent .. .. .</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Rates and taxes .. .. .</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Law costs .. .. .</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Commission .. .. .</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Interest on loans .. .. .</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Interest on debentures .. .. .</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Miscellaneous expenditure (as per details annexed) .. .. .</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>II. Directors' fees from date of formation of company to date of winding-up order ..</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>III. Dividends declared during same period .. .. .</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>						GENERAL EXPENDITURE.			Amount Discharged.			Due at date of Winding-up Order.			£	s.	d.	£	s.	d.	£	s.	d.	Salaries .. .. .									Wages not charged in trading account .. .. .									Rent .. .. .									Rates and taxes .. .. .									Law costs .. .. .									Commission .. .. .									Interest on loans .. .. .									Interest on debentures .. .. .									Miscellaneous expenditure (as per details annexed) .. .. .									II. Directors' fees from date of formation of company to date of winding-up order ..									III. Dividends declared during same period .. .. .											
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II. Receipts (if any) during same period from undermentioned sources :—																																																																																																																																	
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Interest on deposits .. .. .																																																																																																																																	
Transfer fees .. .. .																																																																																																																																	
Amount paid on shares issued and subsequently forfeited (as per list annexed) ..																																																																																																																																	
III. Other receipts (if any) during same period not included under any of the above headings, viz.																																																																																																																																	
IV. Deficiency as per statement of affairs (Part II) .. .. .																																																																																																																																	

[ 2570 ]

A.D. 1909.]

Companies.

[ Act No. 31.

IV. Losses and depreciation written off in company's books :—*							
Bad debts .. .. .	..	..	..	..	..	..	..
Losses on investments .. .. .	..	..	..	..	..	..	..
Depreciation on property .. .. .	..	..	..	..	..	..	..
Preliminary expenses .. .. .	..	..	..	..	..	..	..
V. Losses and depreciations not written off in company's books, now written off by the directors :—*							
Bad debts .. .. .	..	..	..	..	..	..	..
Losses on investments .. .. .	..	..	..	..	..	..	..
Depreciation on property .. .. .	..	..	..	..	..	..	..
Preliminary expenses .. .. .	..	..	..	..	..	..	..
VI. Other losses and expenses .. .. .	..	..	..	..	..	..	..

Total amount to be accounted  
for .. .. . †£

Total amount accounted for .. .. . †£

## NOTES.

\* Where particulars are numerous they should be inserted in a separate schedule.

† These figures should agree.

Signature .....

Dated .....





V. Losses and depreciation from the . . . day of . . . . . 19 . . . *					
written off in company's books, viz. † :—					
Bad debts . . . . .	..	..	..	..	..
Losses on investments . . . . .	..	..	..	..	..
Depreciation of property . . . . .	..	..	..	..	..
Preliminary expenses . . . . .	..	..	..	..	..
VI. Losses and depreciation not written off in company's books,					
now written off by directors † :—					
Bad debts . . . . .	..	..	..	..	..
Losses on investments . . . . .	..	..	..	..	..
Depreciation of property . . . . .	..	..	..	..	..
Preliminary expenses . . . . .	..	..	..	..	..
VII. Other losses and expenses †	..	..	..	..	..

Total amount to be accounted  
for .. .. . †£

Total amount accounted for .. .. †£

## NOTES.

\* Three years before date of winding-up order.

† When particulars are numerous they should be inserted in a separate schedule.

‡ These figures should agree.

Signature .....

Dated .....

\*\* Form O.

GENERAL PROXY.

(Title.)

I, \*....., of....., a creditor [or contributory], hereby appoint †..... to be ‡..... general proxy to vote at the meeting of creditors [or contributories] to be held in the above matter on the..... day of.....19...., or at any adjournment thereof.

Dated this.....day of....., 191.. (Signed) § ..... Signature of Witness ..... Address.....

NOTES.

- 1. The authorized agent of a corporation may fill up blanks and sign for the corporation, thus :— For the.....Company. J. S. (duly authorized under the seal of the company). 2. A proxy may be filled up and signed by any person having a general authority in writing to sign. Such person shall sign :— J. S. [duly authorized by general authority in writing to sign on behalf of (name of creditor or contributory) || ].

Certificate to be signed by person other than creditor or contributory filling up the above proxy when it is signed by the creditor or contributory.

I, ....., of....., being a (here state whether clerk or manager in the regular employment of the creditor or contributory or a justice of the peace), hereby certify that all insertions in the above proxy are in my own handwriting, and have been made by me at the request of the above-named (creditor or contributory), and in his presence before he attached his signature [or mark] thereto.

Dated this.....day of....., 191.. Signature .....

3. The proxy must be lodged with the chairman of the meeting not later than the day before the meeting at which it is to be used, or the time named for that purpose in the notice convening the meeting.

\* If a firm write "We" instead of "I", and set out the full name of the firm. † Here insert "Mr....., of....., a clerk, manager, etc., in my [our] regular employ". The standing of the person appointed must be clearly set out. ‡ "My" or "our". § If a firm, sign the firm's trading title and add "by A. B., a partner in the said firm". As to signature by agent see footnotes 1 and 2. || The chairman of the meeting may require the authority to sign to be produced for his inspection.

\*\* Added by Govt. Notice No. 1486 of 1909.

[ 2574 ]

†† Form P.

SPECIAL PROXY.

(Title.)

I, \*....., of....., a creditor [or contributory] hereby appoint †..... as †..... proxy at the meeting of creditors [or contributories] to be held on the..... day of..... 191... or at any adjournment thereof, to vote §

Dated this..... day of..... 191...

(Signed) || .....

Signature of Witness .....

Address .....

NOTES.

1. A creditor or contributory may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all or any of the following matters:—

(a) For or against the appointment or continuance in office of any specified person as liquidator or as member of the committee of inspection.

(b) On all questions relating to any matter, other than those above referred to, arising at a specified meeting or adjournment thereof.

2. The authorized agent of a corporation may fill up blanks and sign for the corporation thus:—

For the..... Company.

J. S. (duly authorized under the seal of the company).

3. A proxy may be filled up and signed by any person having a general authority in writing to sign. Such person shall sign:—

J. S. [duly authorized by general authority in writing to sign on behalf of

(name of creditor or contributory) \*\*].

\* If a firm write "We" instead of "I" and set out in full the name of the firm.

† Here insert "Mr....., of....., a clerk, manager, etc., in my [our] regular employ". The standing of the person appointed must be clearly set out.

‡ "My" or "our".

§ Here insert the word "for" or the word "against", as the case may require, and specify the particular resolution.

|| If a firm, sign the firm's trading title and add "by A. B., partner in the said firm". As to signature by agent see footnotes 2 and 3.

\*\* The chairman of the meeting may require the authority to sign to be produced for his inspection.

†† Added by Govt. Notice No. 1486 of 1909.

Certificate to be signed by person other than creditor or contributory filling up the above proxy when it is signed by the creditor or contributory.

I, ....., of ....., being a (here state whether clerk or manager in the regular employment of the creditor or contributory or a justice of the peace) hereby certify that all insertions in the above proxy are in my own handwriting and have been made by me at the request of the above-named (creditor or contributory), and in his presence before he attached his signature [or mark] thereto.

Dated this .....day of.....191...

Signature .....

4. The proxy must be lodged with the chairman of the meeting not later than the day before the meeting at which it is to be used, or the time named for that purpose in the notice convening the meeting.

\* Form Q.

Master's Reference No.....

FORM OF STATEMENT OF RECEIPTS AND PAYMENTS AND GENERAL DIRECTIONS AS TO STATEMENTS.

Size of Sheets.

1. Every statement must be on sheets 13 inches by 16 inches.

Form and Contents of Statement.

2. Every statement must contain a detailed account of all the liquidator's realizations and disbursements in respect of the company. The statement of realizations should contain a record of all receipts derived from assets existing at the date of the winding-up order or resolution and subsequently realized, including balance in bank, book debts and calls collected, property sold, etc.; and the account of disbursements should contain all payments for costs and charges, or to creditors or contributories. Where property has been realized, the gross proceeds of sale must be entered under realizations, and the necessary payments incidental to sales must be entered as disbursements. These accounts should not contain payments into or out of bank, which should be shown separately by means of the bank pass-book.

All payments must be supported by satisfactory vouchers.

Each receipt and payment, and the date thereof, must be entered in the account in such a manner as sufficiently to explain its nature. The receipts and payments must severally be added up at the foot of each sheet, and the totals carried forward from one account to another without any intermediate balance, so that the gross totals shall represent the total amounts received and paid by the liquidator respectively.

Trading Account.

3. When the liquidator carries on a business, a trading account must be forwarded as a distinct account, and must include the following items and no others, viz.: (a) On the credit side of the account an entry showing the value of the stock on hand at the

\* Added by Govt. Notice No. 1486 of 1909.

date of the winding-up order; (b) the totals of receipts and payments on the trading account; and (c) on the debit side of the account an entry showing the value of stock on hand at the date up to which the account is completed.

*Dividends, etc.*

4. When dividends or instalments of compositions are payable to creditors, or a return of surplus assets is to be made to contributories, the total amount of all dividends, instalments of composition and returns to contributories, must be shown in the statement of disbursements as a balance available for distribution; and the liquidator must forward separate accounts showing in lists the amount of the claim of each creditor, and the amount of dividend or composition payable to each creditor, and of surplus assets payable to each contributory. Each list must be on sheets 13 inches by 8 inches.

5. Credit may be taken provisionally in the statement of disbursements for the amount claimed in respect of liquidator's remuneration, but except by permission of the Master or of the Court no part of such remuneration shall be drawn until the account in which it appears has been confirmed.

*Statement to be transmitted to Registrar pursuant to Section 194, Sub-section (1).*

6. (a) In the case of a voluntary winding-up, or a winding-up subject to the supervision of the Court, the statement required by Section 194, Sub-section (1), to be transmitted to the Registrar shall be in the forms Q, Q 1, Q 2, Q 3, but in the form Q 3 amounts paid to creditors or contributories should be shown as disbursements, thus: Amount paid to secured creditors as per List "A", etc. The statement must be made up and transmitted to the Registrar as soon as may be after the liquidation has been proceeding for twelve months and thereafter at regular intervals of six months until the completion of the liquidation.

(b) In the case of a winding-up by Court there shall be transmitted to the Registrar, as soon as the liquidation has been proceeding for twelve months, pursuant to the above section, a copy of every statement in the forms Q, Q 1, Q 2, Q 3 theretofore lodged with the Master and thereafter when any further statement in the said forms is lodged with the Master a copy thereof shall be transmitted to the Registrar.

LIQUIDATOR'S STATEMENT OF ACCOUNTS.

*(Pursuant to Section 131 of the Companies Act, 1909.)*

Name of Company.....  
 .....  
 Nature of Proceedings (whether wound up by  
 the Court, or under the supervision of }  
 the Court, or voluntarily) ..... }  
 Date of commencement of winding-up .....  
 Date to which settlement is brought down.....  
 Name and Address of Liquidator .....

(This Statement is required in duplicate.)

LIQUIDATOR'S STATE  
(Pursuant to Section 131 of

MENT OF ACCOUNT.  
the Companies Act, 1909.)

A.D., 1909.]

REALIZATIONS.

DISBURSEMENTS.

Date.	Of whom received.	Nature of Assets Realized.	Amount.		
			£	s.	d.
		Brought forward ..			
		Carried forward ..£			

This margin is reserved for binding and must not be written across.  
This margin is reserved for binding and must not be written across.

Date.	To whom paid.	Nature of Disbursements.	Amount.		
			£	s.	d.
		Brought forward ..			
		Carried forward ...*£			

Companies.

[Act No. 31.

\* NOTE.—No balance should be shown on this Account, but only the total Realizations and Disbursements, which should be carried forward to the next Account.

[TURN OVER.

ANALYSIS OF BALANCE.

	£	s.	d.
Total Realizations .. .. .			
„ Disbursements .. .. .			
Balance .. .. .	<hr/>		
The balance is made up as follows:—			
1. Cash in hands of Liquidator .. .. .			
2. Total payments into bank, including balance at date of commencement of winding-up (as per bank-book). .. .. .	£	s.	d.
Total withdrawals from bank .. .. .			
Balance at bank .. .. .	<hr/>		
Total balance as shown above .. .. .	<hr/> <hr/>		

NOTE.—The Liquidator should also state—

1. The amount of the estimated assets and liabilities at the date of the commencement of the winding-up .. .. .	Assets	Liabilities	Secured and preferent creditors .. £
			Debenture holders .. .. £
			Unsecured creditors .. .. £
2. The total amount of the capital paid up at the date of the commencement of the winding-up. .. .. .			Paid up in cash .. .. £
			Issued as paid up otherwise than for cash £
3. The general description and estimated value of outstanding assets (if any) .. .. .			
4. The causes which delay the termination of the winding-up .. .			

5. The period within which the winding-up may probably  
be completed .. .. .

Form Q 1.

Master's Reference No.....

AFFIDAVIT OR SOLEMN DECLARATION VERIFYING STATEMENT OF LIQUIDATOR'S ACCOUNT.

Insert here the title of the Company.....

I, ....., of.....

make oath and say  
the liquidator of the above-named Company, or : That \* *the account hereunto annexed marked B contains a full and*

solemnly declare  
*true account of my receipts and payments in the winding-up of the above-named Company, from the.....day of....., 19...., to the.....day of....., 19...., inclusive, \* and that I have not, nor has any other person by my order or for my use during such period, received or paid any moneys on account of the said Company \* other than and except the items mentioned and specified in the said account.*

I further say that the particulars given in the annexed-form marked Q 2 with respect to the proceedings in and position of the liquidation are true to the best of my knowledge and belief.

Sworn or declared at

\* NOTE.—If no receipts or payments, strike out the words in italics.

The Affidavit or Solemn Declaration is *not* required in duplicate, but it must in every case be accompanied by a statement on form Q in duplicate.

Form Q 2.

Master's Reference No.....

LIQUIDATOR'S TRADING ACCOUNT.

Insert here the name of the Company.....

Insert here the name of the Liquidator.....

the Liquidator of the above-named Company in account with the Estate.

(This account is required in triplicate in addition to Form Q.)

[ 2580 ]

A.D. 1909.]

Companies.

[ Act No. 31.







I,....., of....., the liquidator of the above-named company, make oath and say that the above statement is a full and true summary of my receipts and payments in the winding-up of the company from the.....day of....., 19... .., to the.....day of....., 19.....

Sworn at..... }  
this.....day of..... }  
19..... }

Before me,

Note.—The liquidator should also state—

- |   |        |          |               |
|---|--------|----------|---------------|
| 1. The amount of the estimated assets and liabilities at the date of the commencement of the winding-up | ... .. | } Assets | ... £         |
| 2. The general description and estimated value of outstanding assets (if any)                           | ... .. |          | } Liabilities |
| 3. The causes which delay the termination of the winding-up   | ... .. |          |               |
| 4. The period within which the winding-up may probably be completed                                     | ... .. |          |               |

5. The balance of realized funds	... ..	{	In bank	... ..	£	:	s.	d.
			In hand	... ..		:	:	
					<hr/>			
					£	:	:	
					<hr/> <hr/>			

Signature..... Liquidator.

(To be forwarded in triplicate.)

Form Q 3.—List "A".

Master's Reference No.....

Insert here the name of the Company.....

LIST OF AMOUNTS PAYABLE TO SECURED CREDITORS.\*

Name of Creditor.		Address.	Claim.			Award.		
Surname.	Christian Name.		£	s.	d.	£	s.	d.

\* This statement must be accompanied by the respective proofs of debt.

Form Q 3.—List "B".

Master's Reference No.....

Insert here the name of the Company.....

LIST OF AMOUNTS PAYABLE TO PREFERENTIAL CREDITORS.\*

Name of Creditor.		Address.	Claim.			Award.		
Surname.	Christian Name.		£	s.	d.	£	s.	d.

\* This statement must be accompanied by the respective proofs of debt.

Liquidator.....

Form Q 3.—List "C".

Master's Reference No.....

Here insert the name of the Company.....

LIST OF AMOUNTS PAYABLE TO UNSECURED CREDITORS.\*

Name of Creditor.		Address.	Claim.			Award.		
Surname.	Christian Name.		£	s.	d.	£	s.	d.

\* This statement must be accompanied by the respective proofs of debt.

Form Q 3.—List "D".

Master's Reference No.....

Insert here the name of the Company.....

LIST OF AMOUNTS RETURNABLE TO CONTRIBUTORIES.

Names of Contributories.		No. of Shares Held.	Amount Returnable to Contributories at..... in the £1.		
Surname.	Christian Name.		£	s.	d.

Act No. 31.]

Companies.

[A.D. 1909.

[ 2585 ]

## TABLE OF FEES PAYABLE TO LIQUIDATOR.

[Pursuant to Section 125, Sub-section (7), of the Companies Act, 1909.]

- I. Where the appointment is provisional, and  
 (a) the petition is withdrawn or dismissed; or  
 (b) a winding-up order is made but the provisional liquidator is not continued as liquidator—  
 A fee to be taxed by the Master with due regard to the special circumstances of the case.
- II. Where a liquidator is appointed to liquidate the company (including his services as provisional liquidator):—
- A. Upon the proceeds of immovable property sold—
- |   |              |
|---|--------------|
| On the first £1,000 or fraction thereof .. .. . | 5 per cent.  |
| On the next £4,000 or fraction thereof .. .. .  | 2½ per cent. |
| On the next £15,000 or fraction thereof .. .. . | 1¼ per cent. |
| On the next £30,000 or fraction thereof .. .. . | ½ per cent.  |
| Thereafter .. .. .                              | ¼ per cent.  |
- B. (i) Upon the collection of rents, interest, and other income, promissory notes, and outstanding accounts .. .. . 5 per cent.
- (ii) Upon proceeds of shares and other securities, insurance policies, mortgage bonds, fixed deposits, cash found in the estate—
- |   |              |
|---|--------------|
| On the first £1,000 or fraction thereof .. .. . | 2½ per cent. |
| On the next £19,000 or fraction thereof .. .. . | ½ per cent.  |
| On the next £30,000 or fraction thereof .. .. . | ¼ per cent.  |
| Thereafter .. .. .                              | ⅛ per cent.  |
- Where a special manager is appointed to carry on the business of the company the liquidator shall not be entitled to a commission on moneys received and spent in carrying on the business, but shall be entitled to a commission on the net proceeds of the business according to the graduated scale last provided.
- C. Upon movable property sold by public auction, tender, or otherwise—
- |   |              |
|---|--------------|
| On the first £5,000 or fraction thereof .. .. . | 5 per cent.  |
| On the next £5,000 or fraction thereof .. .. .  | 2½ per cent. |
| On the next £10,000 or fraction thereof .. .. . | 1¼ per cent. |
| On the next £30,000 or fraction thereof .. .. . | ½ per cent.  |
| Thereafter .. .. .                              | ¼ per cent.  |
- D. Upon the amount distributed in dividends or paid to contributories—
- |  |             |
|--|-------------|
| On the first £10,000 or fraction thereof .. .. . | 1 per cent. |
| On the next £10,000 or fraction thereof .. .. .  | ½ per cent. |
| On the next £30,000 or fraction thereof .. .. .  | ¼ per cent. |
| Thereafter .. .. .                               | ⅛ per cent. |
- III. Where the liquidator is appointed for the purpose of carrying out a reconstruction or other scheme by which the affairs of the company are wound up otherwise than by the realization and distribution of the assets:—
- On the value of the company's property as estimated in the statement of affairs—
- |   |             |
|---|-------------|
| On the first £5,000 or fraction thereof .. .. . | 1 per cent. |
| On the next £20,000 or fraction thereof .. .. . | ½ per cent. |
| On the next £25,000 or fraction thereof .. .. . | ¼ per cent. |
| On the next £50,000 or fraction thereof .. .. . | ⅛ per cent. |
| Thereafter .. .. .                              | ⅙ per cent. |

The remuneration of liquidators shall in every case be taxed by the Master and may be allowed according to the above rates, but the Master may increase or reduce the same in special cases if he shall see fit.

Every taxation of the Master shall be subject to review by the Supreme Court upon the application of any interested party by notice of motion.

## TABLE OF FEES PAYABLE TO A SPECIAL MANAGER.

[Pursuant to Section 139, Sub-section (3), of the Companies Act, 1909.]

A fee to be taxed by the Master, with due regard to the special circumstances of each case, such taxation to be subject to review by the Supreme Court upon application by notice of motion.

## FOURTH SCHEDULE.

## Table A.

## REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

*Preliminary.*

1. In these regulations, unless the context otherwise requires, expressions defined in the Companies Act, 1909, or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; the expression "foreign committee" shall mean any such committee as is appointed under article *eighty-nine* of these regulations and words importing the singular shall include the plural, and *vice versa*, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

*Business.*

2. The directors shall have regard to the restrictions on the commencement of business imposed by section *eighty-five* of the Companies Act, 1909, if, and so far as, those restrictions are binding upon the company.

*Shares and Certificates of Shares.*

3. Subject to the provisions, if any, in that behalf of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such preferred, deferred, or other special rights, or such restrictions, whether in regard to dividend, voting, return of capital or otherwise, as the company may from time to time by special resolution determine.

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings, and sections *sixty-three* and *sixty-five* of the Act, whenever applicable, shall *mutatis mutandis* apply but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

5. No share shall be offered to the public for subscription except upon the terms that the amount payable on application shall be at least ten per centum of the nominal amount of the share; and the directors shall, as regards any allotment of shares, duly comply with such of the provisions of sections *eighty-three* and *eighty-six* of the Companies Act, 1909, as may be applicable thereto.

6. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate specifying the share or shares held by him and the amount paid up thereon.

7. If a share certificate is defaced, lost, or destroyed, it may be renewed on payment of such fee, if any, not exceeding one shilling, and on such terms, if any, as to evidence and indemnity as the directors think fit.

8. Share certificates shall be issued under the authority of the directors, or the foreign committee when authorized thereto by resolution of the directors, in such manner and form as the directors shall from time to time prescribe. All shares shall be numbered in numerical progression beginning with the number one, and each share shall be distinguished by its appropriate number.

9. Each member shall be entitled to one certificate for all the shares registered in his name, or to several certificates, each for a part of such shares. Every share certificate shall specify the number of shares in respect of which it is issued, and the amount paid up thereon. Every original member shall be entitled to one share certificate *gratis* but for every subsequent certificate the directors may make such charge as from time to time they may think fit.

10. A certificate for shares registered in the names of two or more persons shall be delivered to the person first named in the register as a holder thereof, and delivery of a certificate for a share to that person shall be a sufficient delivery to all joint holders of that share.

11. No part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

*Lien.*

12. The company shall have a lien on every share (not being a fully-paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of such share and the company shall also have a lien on all shares (other than fully-paid shares) standing registered in the name of a single person, for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. The company's lien, if any, on a share shall extend to all dividends payable thereon.

13. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists, is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled by reason of his death or insolvency to the share.

14. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

*Calls on Shares.*

15. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares; provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

16. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

17. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof the person from whom the sum is due shall pay interest upon the sum at the rate of ten pounds per centum per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of such interest wholly or in part.

18. The provisions of these regulations as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

19. The directors may make arrangements on the issue of shares for a difference between classes of holders in the amount of calls to be paid and in the times of payment.

20. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six per centum) as may be agreed upon between the member paying the sum in advance and the directors. If the whole amount unpaid on any shares be paid, the directors may issue those shares as fully paid up.

*Transfer and Transmission of Shares.*

21. The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.



22. Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve :

I, A.B. of \_\_\_\_\_ in consideration of the sum of £ \_\_\_\_\_ paid to me by C.D. of \_\_\_\_\_ (hereinafter called "the said transferee") do hereby transfer to the said transferee the share [or shares] numbered \_\_\_\_\_ in the undertaking called the \_\_\_\_\_ Company Limited, to hold unto the said transferee, his legal representatives and assigns, subject to the several conditions on which I held the same at the time of the execution thereof ; and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid. As witness our hands the \_\_\_\_\_ day of \_\_\_\_\_

Witness to the signatures of, etc.

23. The directors may decline to register any transfer of shares, not being fully-paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognise any instrument of transfer unless

(a) a fee not exceeding two shillings and sixpence is paid to the company in respect thereof, and

(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

24. Every instrument of transfer shall be left at a transfer office of the company at which it is presented for registration, accompanied by a certificate of the shares to be transferred. Every power of attorney given by a shareholder authorizing the transfer of shares, shall, when lodged produced or exhibited to the company or any of its proper officers, be deemed as between the company and the donor of the power to continue and remain in full force and effect, and the company may allow that power to be acted upon until such time as express notice in writing of its revocation has been lodged at such of the company's transfer offices as the power was lodged, produced, or exhibited as aforesaid. The company shall not be bound to allow the exercise of any act or matter by an agent for a shareholder unless a duly certified copy of that agent's authority be produced and lodged with the company.

25. The legal representatives of a deceased sole holder of a share shall be the only persons recognised by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the legal representatives of the deceased survivor shall be the only persons recognised by the company as having any title to the share.

26. Any person becoming entitled to a share in consequence of the death or insolvency of a member shall, upon such evidence being produced as may from time to time be required by the directors, have the right, either to be registered as a member in respect of the share or instead of being registered himself, to make such transfer of the share as the deceased or insolvent could have made ; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or insolvent before the death or insolvency, but nothing herein contained shall release the estate of a deceased joint shareholder from any liability in respect of shares jointly held by him.

27. The parent or guardian of a minor and the *curator bonis* of a lunatic member and any person becoming entitled to shares in consequence of the death, insolvency, or arrangement with creditors, of any member or the marriage of any female member or by any lawful means other than by transfer in accordance with these regulations, may, upon producing such evidence as sustains the character in respect of which he proposes to act under this regulation, or of his title, as the directors think sufficient, transfer those shares to himself or any other person, subject always to the regulations as to transfer hereinbefore contained.

This regulation is hereinafter referred to as the "transmission clause".

28. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

\* *Forfeiture of Shares.*

29. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

30. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of nonpayment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

31. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

32. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

33. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company shall have received payment in full of the nominal amount of the shares.

34. When any share shall have been so forfeited notice of the resolution shall be given to the person in whose name the shares stood prior to the forfeiture, and an entry of the forfeiture with the date thereof shall forthwith be made in the register.

35. An affidavit or solemn declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and such declaration, and the receipt of the company for the consideration (if any) given for the share on the sale or disposition thereof shall constitute a good title to such share and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

36. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

*Conversion of Shares into Stock.*

37. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock and may with the like sanction reconvert any stock into paid-up shares of any denomination.

38. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of such minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

39. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges, and advantages as regards dividends, voting at meetings of the company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not if existing in shares, have conferred that privilege or advantage.

40. Such of the regulations of the company (other than those relating to share warrants) as are applicable to paid-up shares shall apply to stock, and the word "share" and "shareholder" therein shall include "stock" and "stock-holder".

*Share Warrants.*

41. The company may issue share warrants, and accordingly the directors or, if so authorized any foreign committee, may, in their discretion, with respect to any share which is fully paid up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence (if any) as the directors or foreign committee, (as the case may be) may from time to time require as to the identity of the person signing the request, and on receiving the certificate (if any) of the share, and the amount of the stamp duty (if any) on the warrant and such fee as the directors may from time to time require, issue a warrant, duly stamped, when stamp duty is payable stating that the bearer of the warrant is entitled to the shares therein specified and may provide by coupons or otherwise for the payment of dividends, or other moneys, on the shares included in the warrant.

42. A share warrant shall entitle the bearer to the shares included in it and the shares shall be transferred by the delivery of the share warrant, and the provisions of the regulations of the company with respect to transfer and transmission of shares shall not apply thereto.

43. The bearer of a share warrant shall, on surrender of a warrant to the company for cancellation, and on payment of such sum as the directors may from time to time prescribe, be entitled to have his name entered as a member in the register of members in respect of the shares included in the warrant.

44. The bearer of a share warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited the depositor shall have the same right of signing a requisition for calling a meeting of the company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiration of two clear days from the time of the deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognised as depositor of the share warrant. The company shall, on two days' written notice return the deposited share warrant to the depositor.

45. Subject as herein otherwise expressly provided no person shall as bearer of a share warrant, sign a requisition for calling a meeting of the company, or attend, or vote, or exercise any other privilege of a member at a meeting of the company, or be entitled to receive any notices from the company; but the bearer of a share warrant shall be entitled in all other respects to the same privileges and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the company.

46. The directors may from time to time make rules as to the terms on which (if they shall think fit) a new share warrant or coupon may be issued by way of renewal in case of defacement, loss, or destruction.

*Alteration of Capital.*

47. The directors may, with the sanction of an extraordinary resolution of the company, increase the capital, by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

48. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of share capital, and subject also to the provisions of section *eighty-three* of the Companies Act, 1909, all new shares shall before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

49. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original capital.

50. The company may, by special resolution—

- (a) consolidate and divide its share capital into shares of larger amount than its existing shares ;
- (b) by sub-division of its existing shares or, any of them, divide the whole, or any part, of its share capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of paragraph (d) of sub-section (1) of section *thirty-nine* of the Companies Act, 1909 ;
- (c) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person ;
- (d) reduce its share capital in any manner and with, and subject to, any incident authorized, and consent required, by law.

*Borrowing Powers.*

51. The directors may in their discretion, from time to time, raise or borrow from the members or other persons any sum or sums of money for the purposes of the company ; provided that the moneys so raised or borrowed shall not without the sanction of a special resolution exceed one half the issued share capital for the time being of the company.

52. The directors may raise or secure the repayment of such moneys in such manner and upon such terms and conditions in all respects as they think fit, and in particular by the execution of mortgage bonds, the issue of debentures, or debenture stock of the company charged upon all or any part of the property and rights of the company, both present and future, including its uncalled capital.

53. If any uncalled capital of the company is included in or charged by any mortgage bond or other security, the directors may delegate to any person as trustee for the person in whose favour the mortgage bond or security is executed, the power to make calls on members in respect of such uncalled capital, and to sue in the name of the company or otherwise for the recovery of the moneys becoming due in respect of calls so made and to give valid receipts for such moneys, and the power so delegated shall subsist during the continuance of the mortgage bond or security, notwithstanding any change in the directors, and shall be assignable if expressed so to be.

*General Meetings.*

54. The statutory general meeting of the company shall be held within the period required by section *sixty-two* of the Companies Act, 1909.

55. A general meeting shall be held once in every year at such time and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

56. The above-mentioned general meetings shall be called ordinary meetings ; all other general meetings shall be called extraordinary.

57. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists as provided by and subject to the provisions of section *sixty-three* of the Companies Act, 1909. If at any time there shall not be within The Transvaal sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

*Proceedings at General Meeting.*

58. Subject to the provisions of section *sixty-five* of the Companies Act 1909 seven days' notice at the least (exclusive of the day on which the notice is served, or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting and, in case of special business, the general nature of such business shall be given in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company ; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

59. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of

sanctioning a dividend, the consideration of the accounts, balance sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

60. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, a person or persons entitled under these regulations to vote and holding not less than one-sixtieth of the share capital represented at the meeting and personally present at the meeting shall be a quorum.

61. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, or, if that day be a public holiday, to the next succeeding day other than a public holiday, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

62. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

63. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

64. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

65. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded, in case the resolution be proposed as a special or extraordinary resolution by a person or persons entitled under these regulations to vote and holding not less than one-sixtieth of the share capital represented at the meeting and, unless a poll is so demanded a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution.

66. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. In computing the majority on the poll regard shall be had to the number of votes to which each member is entitled under these regulations. Scrutineers shall be elected to declare the result of the poll, and their decision, which shall be given by the chairman of the meeting, shall be deemed to be the resolution of the meeting at which the poll is demanded.

67. In the case of an equality of votes, whether on a show of hands, or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.

68. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.

#### *Votes of Members.*

69. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

70. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.



of by the board and on such appointment being made, the alternate director shall, in all respects, be subject to the terms, qualifications, and conditions, existing with reference to the other directors of the company.

82. The alternate directors, whilst acting in the place of the directors who appointed them, shall exercise and discharge all the duties and functions of the directors they represent. The appointment of an alternate director shall be cancelled, and the alternate director shall cease to hold office whenever the director who appointed him shall cease to be a director, or shall give notice to the secretary of the company that the alternate director representing him shall have ceased to do so, and in case of the disqualification or resignation of any alternate director during the absence or inability to act of the director whom he represents, the vacancy so arising shall be filled by the chairman for the time being of the directors nominating a duly qualified shareholder to fill the same, subject to approval of the board.

#### *Powers and Duties of Directors.*

83. The business of the company shall be managed by the directors who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not by the Companies Act, 1909, or any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these regulations to the provisions of the said Acts, and to such regulations being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

84. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term, and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way, and partly in another) as they may think fit, and a director so appointed shall not, while holding such office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors; but his appointment shall be subject to determination *ipso facto* if he shall cease from any cause to be a director, or if the company in general meeting shall resolve that his tenure of the office of managing director or manager be determined.

85. The directors may from time to time entrust to or confer upon a managing director or manager for the time being such of the powers and authorities vested in them, as they may think fit, and may confer such powers and authorities for such time and to be exercised for such objects and purposes and upon such terms and conditions and with such restrictions as they may think expedient; and they may confer such powers and authorities either collaterally or to the exclusion of, and in substitution for, all or any of the powers and authorities of the directors in that behalf and may from time to time revoke or vary all or any of such powers and authorities.

86. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed one half the issued share capital of the company without the sanction of the company in general meeting.

87. The directors shall duly comply with the provisions of the Companies Act 1909, or any statutory modification thereof for the time being in force, and in particular the provisions in regard to keeping a register of the directors, and in regard to sending to the Registrar of Companies an annual list of members, and a summary of particulars relating thereto, and notice of any consolidation or increase of share capital, or conversion of shares into stock, and copies of special resolutions and a copy of the register of directors and notifications of any changes therein.

88. The directors shall cause minutes to be made in books provided for the purpose.

- (a) of all appointments of officers made by the directors;
  - (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;
  - (c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;
- and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

*Foreign Committees.*

89. The directors may from time to time appoint persons resident in a foreign country to be a foreign committee for the company in that country and may appoint transfer offices of the company in any foreign country and close the same at their discretion and may appoint and remove agents to represent the company in a foreign country for the issue, sub-division, and transmission of shares of that company, subject to the provisions of these regulations and for such other purposes as the directors may, subject to these regulations, determine. The directors may further give to the members of a foreign committee or such agents the power to appoint alternate committee men or substituted agents to act during their absence and remove such alternate committee men and substituted agents and appoint others or themselves again to act for the company and may grant to such committee men or agents the power to appoint other persons as co-committee men or joint agents.

90. The directors may act on a foreign committee whenever temporarily in the foreign country in which the committee is appointed and may take part in the proceedings of such committee and have the same rights and privileges as any member of the committee permanently resident in that foreign country.

91. A foreign committee may—

- (a) appoint a transfer office of the company in the foreign country for which it is appointed and pay the rent and other expenses connected therewith;
- (b) engage and at their discretion remove or suspend a secretary, clerks, and servants in connection with the business of the company in a foreign country for which it is appointed and determine their duties and pay their salaries as fixed by the directors of the company;
- (c) execute and sign transfers of shares in the foreign country for which it is appointed and do any act or thing necessary for effecting the transmission of such shares;
- (d) issue and sign new certificates relating to shares transferred or to be transferred at the transfer office of the country for which the committee is appointed, replace any existing share certificates, sub-divide shares, or replace defaced or worn out certificates upon production thereof to the committee and if any such certificate or any cheque, dividend warrant, or other document be lost or destroyed, the committee may upon proof to its satisfaction of the loss or destruction and on receiving such indemnity and giving such advertisement as it deems adequate, issue and sign a new certificate, dividend warrant, cheque, or other document in lieu thereof. A foreign committee may charge fees and expenses in respect of all or any of the acts mentioned in this paragraph which may from time to time be payable under these regulations and may by its committee or its secretary give valid receipts for such fees. Every certificate relating to shares transferred at the transfer office in the country for which the committee is appointed shall be signed by two members of that committee and countersigned by its secretary or like officer;
- (e) issue shares and certificates therefor when thereto authorized by resolution of the board of directors in such manner or form as the directors may from time to time prescribe, subject to the provisions of these regulations;
- (f) do in the name of and on behalf of the company all such acts and things not specifically mentioned in these regulations as may in the judgment of the committee be necessary or convenient for the exercise of any of the committee's powers.

92. Each member of a foreign committee may appoint an alternative committee man to act with full power during his own absence or inability to act, provided the appointment be confirmed by the foreign committee.

93. It shall not be necessary for a member of a foreign committee to be a shareholder of the company.

94. The meetings, proceedings, and acts of a foreign committee shall be governed by the provisions of these regulations relating to meetings, proceedings, and acts of directors so far as the same are applicable and are not superseded by any express powers vested from time to time in the foreign committee by the directors.



*Disqualifications of Directors.*

95. The office of director shall be vacated :—

if he gives one month's notice in writing to the board of the directors of his intention to resign office and his resignation be accepted by them;

if he ceases to be a director by virtue of section *seventy-one* of the Companies Act 1909 ; or

if he holds any other office of profit under the company except that of managing director or manager ; or

if he becomes insolvent or assigns his estate for the benefit of or compounds with his creditors ; or

if he is found lunatic or becomes of unsound mind ; or

if he is absent from four consecutive meetings of the directors without special leave of absence given by the board provided all such four meetings be not held within a period of thirty days ; provided further that the board may not grant such special leave for more than six consecutive months unless the director is to be absent on the business of the company : this sub-clause shall not apply to a director represented by an alternate director ;

if he is concerned or participates in the profits of any contract with the company.

Provided that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with or done any work for the company of which he is director if he has fully disclosed to the board of directors his interest in such contract or work ; but a director shall not vote in respect of such contract or work, and if he does so vote his vote shall not be counted.

*Rotation of Directors.*

96. At the first ordinary meeting of the company the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year one-third of the directors for the time being, or if their number is not three or a multiple of three, then the number nearest to one-third, shall retire from office.

97. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall, unless they otherwise agree among themselves, be determined by lot.

98. A retiring director shall be eligible for re-election.

99. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.

100. If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week at the same time and place, and if at such adjourned meeting the places of the vacating directors are not filled up the vacating directors, or such of them as have not had their places filled up shall be deemed to have been re-elected at such adjourned meeting.

101. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

102. Unless the shareholders otherwise determine in general meeting any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

103. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

104. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead ; the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

*Proceedings of Directors.*

105. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes

the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

106. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall (when the number of directors exceeds three) be three.

107. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

108. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

109. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

110. A committee may elect a chairman of their meetings: if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

111. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

112. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

#### *Dividends Bonus and Reserve.*

113. The company in general meeting may declare dividends.

114. The directors may from time to time pay to the members such *interim* dividends as appear to the directors to be justified by the profits of the company.

115. No dividend shall be paid otherwise than out of profits.

116. Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

117. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves, which shall, at the discretion of the directors be applicable for meeting contingencies or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

118. If several persons are registered as joint holders of any share any one of them may give effectual receipts for any dividend payable on the share.

119. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

120. The directors may deduct from the dividends or bonus payable to any member all such claims or sums of money which may be due from time to time to the company on account of calls or otherwise. No dividend or bonus shall bear interest against the company, and any dividend or bonus remaining unclaimed for a period of five years from this declaration may, provided notice of the declaration has been given by advertisement to the person entitled thereto and sent to his last registered address, be forfeited by resolution of the directors for the benefit of the company.

121. Every dividend or bonus may be paid by cheque, warrant, coupon, or otherwise as the directors may from time to time determine, and shall, if paid otherwise than by coupon, either be sent by post to the last registered address of the member entitled thereto or be given to him personally, and the receipt or endorsement on the cheque or warrant of the person whose name appears in the register as the shareholder, or his duly authorised agent or the surrender of any coupon shall be a good discharge to the company in respect thereof.

122. The company shall not be responsible for the loss in transmission of any cheque, warrant, coupon, or other document sent through the post to the registered address of any member, whether or not it was so sent at his request.

#### Accounts.

123. The directors shall cause true accounts to be kept—

of the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place; and of the assets and liabilities of the company.

124. The books of account shall be kept at the registered office of the company or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

125. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorized by the directors or by the company in general meeting.

126. Once at least in every year the directors shall lay before the company, in general meeting a profit and loss account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.

127. A balance sheet shall be made out in every year and laid before the company in general meeting made up to a date not more than six months before such meeting. The balance sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount, if any, which they propose to carry to a reserve fund.

128. A copy of the balance sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

#### Audit.

129. Auditors shall be appointed and their duties regulated in accordance with sections *ninety-nine* and *one hundred* of the Companies Act 1909 or any statutory modification thereof for the time being in force.

#### Notices.

130. A notice may be given by the company to any member either by advertisement or personally, or by sending it through the post in a prepaid letter addressed to such member at his registered address, or (if he has no registered address in The Transvaal) at the address (if any) within The Transvaal supplied by him to the company for the giving of notices to him. Any notice which may be given by advertisement shall be inserted in the *Gazette* and in such newspapers as the directors may from time to time determine.

131. Whenever a notice is to be given personally or sent by post, the notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register in respect of the share.

132. Whenever a notice is to be given personally or sent by post the notice may be given by the company to the persons entitled to a share in consequence of the death or insolvency of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the insolvent or by any like description at the address (if any) in The Transvaal supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

133. Notice of every general meeting shall be given in some manner hereinbefore authorized to (a) every member of the company (including bearers of share warrants) except, in the case of notices to be given personally or sent by

post, those members who (having no registered address within The Transvaal) have not supplied to the company an address within The Transvaal for the giving of notices to them and also to (b) every person entitled to a share in consequence of the death or insolvency of a member who, but for his death or insolvency, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meeting.

134. Any notice, if given by post, shall be deemed to have been served at the time when the letter containing the same is put into the Post Office, and any notice given by advertisement shall be deemed to have been given on the day upon which the advertisement was published in the *Gazette*, and in, proving the giving of the notice sent by post it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

135. A notice given to any member shall be binding on all persons claiming on death, or by any transmission of his interests.

136. The signature to any notice given by the company may be written or printed, or partly written and partly printed.

137. When a given number of days' notice or notice extending over any other period is required to be given, the day of service shall be counted in such number of days or period.

#### MISCELLANEOUS.

138. If the provisions of these regulations are in any way inconsistent with the provisions of the Companies Act 1909 or any other law the provisions of that Act or other law shall prevail, and these regulations shall be read in all respects subject to that Act or that other law.

#### FIFTH SCHEDULE.

THE COMPANIES ACT 1909.  
Statement in lieu of prospectus lodged by  
pursuant to section *eighty* of the Companies Act 1909. Limited:  
Presented for filing by  
THE COMPANIES ACT 1909.

LIMITED.

#### STATEMENT IN LIEU OF PROSPECTUS.

The nominal capital of the company	£		
Divided into ... ..	Shares of £		each.
	"		"
	"		"
	"		"
Names descriptions and addresses of directors or proposed directors.			
Minimum subscription (if any) fixed by the memorandum or articles of association on which the company may proceed to allotment.			
Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.	1.	shares of £	paid.
	2.	shares upon which £	
		per share credited as paid.	
	3.	debenture	£
The consideration for the intended issue of such shares and debentures.	4.	Consideration.	
Names and addresses of * vendors of property purchased or acquired, or proposed to be † purchased or acquired by the company.			
Amount (in cash shares or debentures) payable to each separate vendor.			

(Signature of the persons above named as directors or proposed directors or of their agents authorized in writing.)

\* For definition of vendor see sec. 79 (2) of the Companies Act 1909.

† See section 79 (3) of the Companies Act 1909.

## STATEMENT IN LIEU OF PROSPECTUS—(continued).

Amount (if any) paid or payable (in cash or shares of debentures) for any such property specifying amount (if any) paid or payable for good-will.	<table border="0"> <tr> <td>Total purchase price</td> <td>...</td> <td>£</td> <td>_____</td> </tr> <tr> <td>Cash</td> <td>...</td> <td>...</td> <td>£</td> </tr> <tr> <td>Shares</td> <td>...</td> <td>...</td> <td>£</td> </tr> <tr> <td>Debentures</td> <td>...</td> <td>...</td> <td>£</td> </tr> <tr> <td colspan="4">_____</td> </tr> <tr> <td>Good-will</td> <td>...</td> <td>...</td> <td>£</td> </tr> <tr> <td colspan="4">_____</td> </tr> <tr> <td colspan="3"></td> <td>£</td> </tr> </table>	Total purchase price	...	£	_____	Cash	...	...	£	Shares	...	...	£	Debentures	...	...	£	_____				Good-will	...	...	£	_____							£
Total purchase price	...	£	_____																														
Cash	...	...	£																														
Shares	...	...	£																														
Debentures	...	...	£																														
_____																																	
Good-will	...	...	£																														
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			£																														
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company or Rate of such commission ... ..	<table border="0"> <tr> <td>Amount paid</td> <td></td> </tr> <tr> <td>Amount payable</td> <td></td> </tr> <tr> <td>Rate per cent.</td> <td></td> </tr> </table>	Amount paid		Amount payable		Rate per cent.																											
Amount paid																																	
Amount payable																																	
Rate per cent.																																	
Estimated amount of preliminary expenses.	£																																
Amount paid or intended to be paid to any promoter. Consideration for such payment ... ..	<table border="0"> <tr> <td>Name of promoter</td> <td></td> </tr> <tr> <td>Amount £</td> <td></td> </tr> <tr> <td>Consideration :</td> <td></td> </tr> </table>	Name of promoter		Amount £		Consideration :																											
Name of promoter																																	
Amount £																																	
Consideration :																																	
Dates of and parties to every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the filing of this statement).																																	
Time and place at which such contracts or copies thereof may be inspected.																																	
Names and addresses of the auditors of the company.																																	
Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company or where the interest of such a director consists in being a member of a partnership the nature and extent of the interest of the partnership with a statement of all sums paid or agreed to be paid to him or to the partnership in cash or shares or otherwise by any person either to induce him to become or to qualify him as a director or otherwise for services rendered by him or by the partnership in connection with the promotion or formation of the company.																																	

## STATEMENT IN LIEU OF PROSPECTUS—(continued).

Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance sheets or reports of the auditors or other reports.	Nature of the provisions.
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## SIXTH SCHEDULE.

## MEETINGS OF CREDITORS AND CONTRIBUTORIES.

1. The meetings of creditors and contributories shall be held within twenty-one days, or if a special manager has been appointed then within one month, after the date of the winding-up order, or within such further time as the Court may approve.

2. The Master shall summon the meetings by giving not less than seven days' notice of the time and place thereof in the *Gazette* and in a local paper; and thereupon the liquidator shall send by post to every person appearing by the company's books to be a creditor of the company notice of the meeting of creditors, and to every person appearing from the company's books or otherwise to be a contributory of the company, notice of the meeting of contributories.

3. The liquidator shall also, as soon as practicable, send to each creditor mentioned in the company's statement of affairs, and to each person appearing from the company's books or otherwise to be a contributory of the company, a summary of the company's statement of affairs, including the causes of its failure, and any observations thereon which the liquidator may think fit to make. The proceedings at a meeting shall not be invalidated by reason of any summary or notice required by these rules not having been sent or received before the meeting.

4. The meetings shall be held at such place as is in the opinion of the Master most convenient for the majority of the creditors and contributories.

5. The Master, or some person nominated by him, shall be the chairman at the meetings.

6. A person shall not be entitled to vote as a creditor unless he has duly proved a debt to be due to him from the company, and the proof has been duly lodged with the Master not later than the time mentioned for that purpose in the notice convening the meeting or adjourned meeting.

7. A creditor shall not vote in respect of any unliquidated or contingent debt, or of any debt the value of which is not ascertained.

8. For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security, unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

9. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the company, and against whom a sequestration order in insolvency has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

10. The liquidator, may within twenty-eight days after a proof estimating the value of a security as aforesaid has been used in voting at a meeting, require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated, with an addition thereto of twenty per cent. Provided, that where a creditor has valued his security, he may, at any time before being required to give it up, correct the valuation by a new proof, and deduct the new value from his debt, but in that case the said addition of twenty per cent. shall not be made if the security is required to be given up.

11. The chairman shall have power to admit or reject a proof, but his decision shall be subject to appeal to the Court. If he is in doubt whether a

proof should be admitted or rejected he shall mark it as objected to, and allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

12. A creditor or a contributory may vote either in person or by proxy.

13. Every instrument of proxy shall be in the prescribed form, and be issued by the liquidator, and every written part thereof shall be in the handwriting of the person giving the proxy or of any manager or clerk or other person in his regular employment, or of a justice of the peace.

14. General and special forms of proxy shall be sent to the creditors and contributories with the notice summoning the meeting, and neither the name nor description of any person shall be printed or inserted in the body of any instrument of proxy before it is so sent.

15. A creditor or a contributory may give a general proxy to his manager or clerk, or any other person in his regular employment. In any such case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor or contributory.

16. A creditor or a contributory may give a special proxy to any person to vote at any specified meeting, or adjournment thereof—

(a) for or against the appointment or continuance in office of any specified person, as liquidator or member of the committee of inspection; and

(b) on all questions relating to any matter other than those above referred to and arising at the meeting or an adjournment thereof.

17. A proxy intended to be used at the first meeting of creditors or contributories, or an adjournment thereof, shall be lodged with the Master not later than the time mentioned for that purpose in the notice convening the meeting or adjourned meeting, which time shall not be earlier than twelve o'clock at noon of the day but one before nor later than twelve o'clock at noon of the day before the day appointed for that meeting, unless the Court otherwise directs.

18. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a liquidator in obtaining proxies, or in procuring his appointment as liquidator except by the direction of a meeting of creditors or contributories, the Court, if it thinks fit, may order that no remuneration be allowed to the person by whom or on whose behalf the solicitation was exercised, notwithstanding any resolution of the committee of inspection, or of the creditors or contributories to the contrary.

19. The chairman may, with the consent of the meeting, adjourn it from time to time and from place to place.

20. A meeting may not act for any purpose except the proving of debts, and the adjournment of the meeting, unless there are present or represented thereat, at least three creditors entitled to vote or three contributories, or all the creditors or contributories if their number does not exceed three.

21. If within half an hour from the time appointed for the meeting a quorum of creditors or contributories is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven or more than twenty-one days.

22. The chairman shall cause minutes of the proceedings at the meeting to be drawn up, and the minutes shall be signed by him and filed of record in the Master's office.

23. No person acting either under a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer, in a position to receive any remuneration out of the estate of the company otherwise than as a creditor ratably with the other creditors of the company. Provided that where any person holds special proxies to vote for an application to the Court in favour of the appointment of himself as liquidator he may use the said proxies and vote accordingly.

Act No. 32 of 1909.]

[Promulgated 21st July, 1909.

\*AN ACT

TO CONSOLIDATE AND AMEND THE LAWS RELATING TO THE  
WORKING OF MINES, WORKS, MACHINERY, AND TO  
CERTIFICATES.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Repeal of laws.

1. The laws mentioned in the Schedule to this Act shall be and are hereby repealed, together with the provisions of any other law repugnant to or inconsistent with the provisions of this Act.

Interpretation of terms.

2. In this Act and any amendment thereof and in any regulations or rules made thereunder, unless inconsistent with the context,—

“Governor” shall mean the officer for the time being administering the Government of this Colony, acting by and with the advice of the Executive Council thereof;

“machinery” shall mean and include stationary and portable boilers, steam apparatus, steam and other engines, including locomotives, and all appliances or combinations of appliances which can be used for developing receiving transmitting or converting either mechanical or natural power;

“mine” shall mean and include all excavations for the purpose of searching for or winning minerals, as well as working of mineral deposits, whether abandoned or actually being worked on the surface, from the surface downwards and underground, together with all buildings, erections, and appliances belonging or appertaining thereto above and below ground for the purpose of prospecting for or winning metals, minerals, or precious stones by boring excavating or dredging;

“mineral” shall mean and include all substances (including mineral oils) which can be obtained from the earth by mining digging dredging, hydraulicing, or quarrying operations for purposes of profit;

“owner” of a mine or of works or machinery shall mean any person who is the immediate holder or lessee of a mine or of works or machinery or part thereof, or a tributor for the working of a mine or any part thereof, and in the case of a mine or works or machinery owned by an

\* This Act has been amended by Act No. 8 of 1910; neither has as yet been put in force.



incorporated or registered company the term "owner" shall include every director or secretary or representative of the company in this Colony, and in the case of a mine or works or machinery owned by an unincorporated body of persons, shall include every member of that body in this Colony. A person who owns only the soil on which a mine or any works or machinery is situate shall not be deemed to be an "owner" for the purposes of this Act ;

"regulation" shall mean a regulation in force under section four of this Act ;

"Sundays" "Christmas Day" and "Good Friday" shall mean the period from twelve o'clock midnight on the day previous to any such day to twelve o'clock midnight on any such day ;

"works" shall mean and include chemical works, metallurgical works, reduction works, ore-dressing works, petroleum works, salt works, brick-making works, pottery works, lime works, and any places where machinery is erected or used, and all dams, reservoirs, and other appliances for conserving water, or for producing or transmitting energy, or for transporting water or material for the same, with the exception of dams or reservoirs erected outside proclaimed fields and used solely for agricultural purposes or the public or railway service.

3. The supervision of all mines and works and machinery shall be exercised by the Government Mining Engineer, and, subject to the directions of the Government Mining Engineer, by the Inspectors of Mines, the Inspectors of Machinery, Inspectors of Explosives, and other officers duly appointed by the Governor for the purpose.

Official supervision of mines, works and machinery.

4. The Governor may, from time to time, make, alter, and rescind regulations not inconsistent with this Act for all or any of the matters or things, namely :—

Power of Governor to make regulations as to mines, works, and machinery.

(a) the protection and preservation of the surface of mines or works and of buildings, roads, railways, and other structures and enclosures on or above the surface of the ground, and the conditions under which such buildings, roads, railways, structures, and enclosures may be undermined ;

(b) the making and keeping of mine plans and the depositing of copies of the same with the Mines Department ;

(c) the making of statistical and other reports relating to mines, works, and machinery ;

(d) defining the duties and responsibility of owners, managers, overseers, and other persons engaged in or about mines, works, and machinery ;

(e) appeals from any decision of or instruction given by the Government Mining Engineer, an Inspector of Mines or Machinery, Inspector of Explosives, or other duly appointed official ;

(f) the storage, receipt, distribution, transport, and use of explosives ;

*(g) the manner of holding inquiries at any mines or works, the procedure to be followed at any such inquiry and the mode of securing the attendance of witnesses thereat.*

*(h) providing for ambulances and medical aid in case of accident ;*

*(i) prescribing the conditions upon which machinery may be erected or used ;*

*(j) prescribing the fees payable for licences and inspection under this Act ;*

*(k) prohibiting the making of roads or railways over, or the erection of buildings or other objects on, areas which have been undermined ;*

*(l) ensuring the safety and health of persons employed in or about mines and works, and generally providing for the safety of persons, property, and public traffic ;*

*(m) the procedure to be followed in connection with trials under section nine of this Act ;*

*(n) the grant, cancellation, and suspension of certificates of competency to*

*(1) mine managers,*

*(2) mine overseers,*

*(3) mine surveyors,*

*(4) mechanical engineers,*

*(5) engine-drivers,*

*(6) miners entitled to blast,*

*(7) such other persons as the Governor may from time to time deem advisable ;*

*(o) the fees payable by persons applying for any of the certificates mentioned in paragraph (n) or admission to an examination for any such certificate ;*

*(p) underground contract work on mines with the measurement of such work, and the procedure to be adopted in the settlement of disputes arising therefrom ;*

*(q) penalties for the breach of the regulations ;*

*(r) generally for ensuring the proper working and management of all mines and works and of machinery.*

All such regulations and any alteration or rescission thereof shall be published in the *Gazette* and shall be laid upon the tables of both Houses of Parliament within seven days after the same have come into operation, or, if Parliament be not then in session, within seven days after its commencement of its next ensuing session.

5. The manager of a mine or works may make special rules, not inconsistent with this Act or any regulation, for the maintenance of order and discipline and the prevention of accidents in such mine or works. Such rules shall be submitted through the Inspectors of Mines to the Government Mining Engineer for approval, and shall take effect after they have been posted up in a conspicuous place at the mine or works for fourteen days.

The Government Mining Engineer, if he considers such rules unreasonable, unnecessary, or otherwise undesirable, may disallow them, or at any time require them to be altered.

\* Substituted by Act No. 8 of 1910, sec. 2.

Such rules, when and so long as they are so posted up and are legible, shall, until so disallowed and save in so far as they are so altered, have the same force and effect as the regulations, and any person contravening any such rule shall be liable to a fine not exceeding five pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding fourteen days.

6. No person shall perform, or cause or permit to be performed, any work in or about any mine or works on Sundays, Christmas Day, or Good Friday, unless such work be

Work on  
Sundays  
Christmas  
Day and  
Good Friday.

(1) attending to and working pumping machinery or machinery for the supply of light, heat, or power, or steam boilers belonging to any such machinery ;

(2) such repairs above or below the surface as cannot be delayed without causing damage, or which cannot be done upon any other day without unduly interfering with labour on or in a mine or works, and in such class of work shall be included labour in workshops necessary and incidental to such repairs ;

(3) the chemical treatment of ore and other continuous chemical processes ;

(4) the keeping on of blast or smelting furnaces and of chemical works ;

(5) the running of stamp mills or other machinery used for crushing ore ;

provided always that special permission may, on application to an Inspector of Mines, be granted by the Government Mining Engineer for carrying on temporarily any other necessary work, in addition to work in this section described, on the days aforesaid in or about any mine.

Any person who shall contravene the provisions of this section shall be liable on conviction to a fine not exceeding one hundred and fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

7. The Government Mining Engineer may in his discretion permit the driving of a connecting tunnel, shaft, or incline, by any person working a mine through ground held under mining title by another person provided that

Permission of  
Government  
Mining  
Engineer to  
drive connect-  
ing tunnels.

(a) such tunnel, shaft, or incline is necessary for the improved working of the mine ;

(b) the making of such tunnel, shaft, or incline does not hinder the working of such ground ;

(c) the person making the tunnel, shaft, or incline is willing to make good all damage arising from the making thereof ;

(d) the minerals extracted in such tunnel, shaft, or incline, be handed over to the person entitled to the minerals in such ground free of cost.

8. No boy under the age of sixteen years and no female person shall be employed underground on any mine ; and no person under the age of seventeen years shall be permitted or caused to work for any longer period than eight hours in any one day or for longer than forty-eight hours in any one week in any

Employment  
of juveniles  
and females.

mine or works, except for the purpose of performing such work as is described in sub-section (2) of section *six* hereof. Any person contravening the provisions of this section shall be liable on conviction to a fine not exceeding ten pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding fourteen days.

Powers of inspectors of mines, etc., to try breaches of certain regulations.

9. (1) Every Inspector of Mines, Deputy Inspector of Mines, the Chief Inspector of Machinery, and the Chief Inspector of Explosives, and every other official duly appointed under this Act or any amendment thereof, may try any breach of a regulation or of any rule in force under section *five*, unless serious bodily injury or death has been caused to any person by such breach.

(2) For the purposes of such trial any such officer aforesaid may summon any person as a witness in manner prescribed by regulation and every person on whom such summons has been duly served who neglects or refuses without reasonable excuse to attend at the time and place mentioned in such summons shall be liable on conviction before a court of resident magistrate to a fine not exceeding ten pounds or, in default of payment, to imprisonment for a period not exceeding one month.

(3) All evidence at any such trial shall be given upon oath, and every such officer aforesaid is hereby authorized to administer an oath to every witness at such trial, and any person giving false evidence material on such trial shall be deemed to be guilty of perjury.

(4) Any such officer aforesaid may, on finding a person guilty of a breach of a regulation or rule which he is hereby authorized to try, impose a fine not exceeding five pounds or, in default of payment, he shall notify the amount to the employer of such person, who shall withhold the amount so notified from any wages due or to become due to such person and pay it over to such officer aforesaid for the benefit of the Colonial Treasury.

(5) At every such trial any such officer shall take down the evidence in writing and record his finding and sentence in writing and forward the same to the resident magistrate of the district, and an appeal shall lie to such resident magistrate against any such finding and sentence, if notice stating the grounds thereof is given to him in writing within twenty-one days of the date of such sentence, and the decision of the resident magistrate upon such appeal shall be final.

Obstruction of or disobedience to orders of officials.

10. Any person obstructing or hindering any officer of the Mines Department in the discharge of his duty, or disobeying any lawful order given by such official, or refusing or neglecting to furnish such officer with the means and assistance necessary for making an entry, inspection, examination, or inquiry under this Act or any regulation shall be liable to a fine not exceeding one hundred and fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months.

Penalty for obtaining certificate of competency fraudulently.

11. Any person who obtains or attempts to obtain a certificate of competency under regulation by means of fraud, or false pretences, or any false document, shall be liable to a fine not

exceeding seventy-five pounds, or, in default of payment to imprisonment with or without hard labour for a period not exceeding six months, and any certificate obtained by such means shall become thereupon cancelled.

12. Any person contravening any provision of this Act or of any regulation \*or failing to comply with the terms of any notice or instruction given under this Act or any regulation by an officer of the Mines Department shall, whenever no penalty is expressly provided by this Act or by the regulations for the contravention for non-compliance, be liable upon conviction to a fine not exceeding one hundred and fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months, and every court of resident magistrate shall have special jurisdiction to impose the maximum penalty hereby authorized.

Penalties not expressly provided for.

13. If any person is guilty of any act or omission or contravenes any of the provisions of this Act or of the regulations or of any rule in force under section five whereby

Penalty for endangering safety or causing serious bodily injury.

(1) the safety of any person is endangered or likely to be endangered, he shall be liable on conviction to a fine not exceeding two hundred and fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months ;

(2) serious bodily injury is caused to any person, he shall be liable on conviction to a fine not exceeding five hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months ;

provided always that nothing in this section or in section twelve contained shall exempt any person from prosecution for an offence under the common law or any statute, nor prevent the infliction on such a person, if convicted for such offence, of a more severe penalty than is prescribed for a contravention of this Act or the regulations.

†14. This Act may be cited for all purposes as the Mines, Works, Machinery, and Certificates Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.

Title and date of operation of Act.

#### SCHEDULE.

The Mining Certificates Ordinance 1903 (No. 50 of 1903).

The Mines, Works, and Machinery Regulations Ordinance 1903 (No. 54 of 1903).

The Mines, Works, and Machinery Regulations Amendment Ordinance 1905 (No. 31 of 1905).

The Mining Certificates Amendment Ordinance 1906 (No. 11 of 1906).

\* Words in italics inserted by Act No. 8 of 1910, sec. 4.

† This Act has not yet been put in force.

Act No. 33 of 1909.]

[Promulgated 21st July, 1909.]

## AN ACT

TO FURTHER AMEND THE LIQUOR LICENSING LAWS IN  
CERTAIN RESPECTS.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

Repeal of  
laws.

1. Section *thirty-two* of Ordinance No. 32 of 1902 (hereinafter referred to as the principal law), sub-section (5) of section *four* and section *six* of Ordinance No. 17 of 1903, and section *three* of Ordinance No. 68 of 1903 shall be and are hereby repealed.

Limitation of  
number of  
retail licences  
in proportion  
to population.

2. (1) A licensing court shall not grant a certificate for a new retail licence within any municipality if thereby the number of retail licences authorized in that municipality would be more than one for every two hundred parliamentary voters resident therein ; provided that the licensing court may, notwithstanding anything in this sub-section contained, grant certificates for two retail licences in any municipality.

(2) The restrictions which by sub-section (1) are placed upon the grant of certificates for new licences within municipalities shall be observed by a licensing court in hearing and determining applications for certificates for new licences in towns or public diggings outside municipalities and the licensing court may, in such cases, exercise the powers mentioned in the proviso to sub-section (1).

\*(3) As soon as may be after the coming into operation of this Act and thereafter as soon as any periodical general registration of parliamentary voters in this Colony is completed, the Colonial Secretary shall cause to be ascertained from the particulars contained in the rolls of parliamentary voters then in force, the number of parliamentary voters resident respectively in each of the municipalities and in each of the towns and public diggings situate outside municipalities in this Colony, and shall notify that number in the *Gazette*. The number so notified shall be conclusive, in the case of each such municipality, town, or public digging as to the number of voters therein for the purposes of sub-sections (1) and (2).

(4) For the purposes of this section  
“retail licence” shall mean  
a general retail liquor licence,

\* See Govt. Notice No. 1385 of 1909 (*Gazette*, 10/12/09), re number of Parliamentary voters.

a café or restaurant liquor licence,  
a malt liquor licence, or  
a bottle liquor licence ;

but if the applicant for a certificate for a restaurant or  
café liquor licence in respect of any premises is also the  
applicant for a certificate for a malt, bottle, or general  
retail liquor licence or the holder of one of such licences,  
in respect of the same premises, he shall be deemed to  
be the applicant for one licence ;

“ new retail licence ” shall mean a licence in respect of pre-  
mises where, at the date of an application for a certifi-  
cate, no retail licence of the same kind existed, but  
nothing in this definition contained shall be deemed  
to modify the provisions of section *forty* or *forty-one* of  
the principal law ;

“ town ” shall mean a proclaimed town or township, a town-  
ship approved under the Townships Act 1907 or any  
amendment thereof, or a stand township mentioned in  
the First Schedule to the Townships Amendment Act  
1908 ;

“ public digging ” shall mean land which is proclaimed land  
within the meaning of the Precious and Base Metals Act  
1908 or any amendment thereof, or land which is an  
alluvial digging under the Precious Stones Ordinance  
1903 or any amendment thereof.

3. (1) Within one month after the coming into operation of  
this Act the Governor may authorize a special meeting of the  
licensing court of any district of this Colony to hear and determine  
applications for the grant of certificates under the principal law  
in respect of premises where licenses existed in the month of  
December 1908 or subsequent thereto and certificates for the  
renewal of those licences were refused solely upon the ground  
that the licensing court was precluded by the terms of section  
*thirty-two* of the principal law from granting those certificates  
for renewal ; provided that as far as possible preference shall be  
given to the last licensee in respect of any premises.

Power of  
Governor to  
authorize  
special  
sittings of  
licensing  
court to hear  
applications  
by persons  
who failed to  
obtain  
renewals of  
licences owing  
to section  
*thirty-two*  
of Ordinance  
No. 32 of 1902.

(2) Every application at such a special meeting shall be made  
in manner prescribed by, and subject in all respects to, the pro-  
visions of the principal law relating to applications for certificates  
for liquor licences, and every such application shall be deemed for  
all purposes of the principal law or any amendment thereof to be  
an application for a renewal of a certificate :

Provided that the Governor may order that the several periods  
required by sections *twenty-two*, *twenty-three*, *twenty-six*, and *twenty-*  
*eight* of the principal law shall be shortened for the purpose of  
hearing and determining every such application in any or all such  
districts, and may prescribe the several shorter periods in lieu of  
the periods aforesaid, but so that not less than fourteen days be  
prescribed in lieu of the period of six weeks mentioned in the  
said section *twenty-two*.

*Liquor Licensing Laws  
Further Amendment.*

A.D. 1909.]

[Act No. 33.]

Interpreta-  
tion of certain  
terms in  
municipality.

4. Whenever in the principal law the terms "town", "village", or "stand township" are used, those terms shall be deemed to mean a municipality, or a town (as defined in and for the purposes of section *two* of this Act) outside a municipality, and whenever in the principal law the term "proclaimed public diggings" is used that term shall be deemed to be public diggings (as defined in the said section) outside a municipality.

Nothing in this section contained shall be construed as preventing the renewal at any time of a licence existing at that time.

Refusal of  
licence by  
court without  
giving  
reasons.

5. Nothing in this Act contained shall be construed, as in any way recognizing the principle of the licensing of premises or, as derogating in any way whatever from those rights and powers of a licensing court described in sections *twenty-seven* and *twenty-eight* of the principal law.

Abolition of  
minimum  
penalties for  
contravention  
of section  
*fifty-seven* of  
Ordinance No.  
32 of 1902.

6. Notwithstanding anything contained in section *fifty-seven* of the principal law, a court may, in its discretion, sentence any person convicted for a contravention of that section to a shorter period of imprisonment than the minimum period prescribed for such a contravention, or may, in its discretion, sentence the convicted person to such a fine only as is prescribed for the contravention.

Restrictions  
on sale or  
supply of  
malt liquor  
by holders of  
brewers'  
licences.

7. The holder of a brewer's licence obtained under section *two* of Act No. 9 of 1907 shall be subject to the same restrictions and penalties in respect of the sale or supply of malt liquor as apply to the holder of a wholesale licence.

Nothing in this section contained shall be construed as applying the provisions of section *fourteen* of Ordinance No. 8 of 1906 to the holder of a brewer's licence.

Title and date  
of operation  
of Act.

8. This Act may be cited for all purposes as the Liquor Licensing Laws Further Amendment Act 1909, shall be read as one with the principal law or any amendment thereof, and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

\* The Act was first published in a *Gazette Extraordinary* on the 21st July, 1909.



Act No. 34 of 1909.]

[Promulgated 21st July, 1909.]

AN ACT

TO PROVIDE FOR THE REGISTRATION OF PREMISES IN WHICH STOCKS AND SHARES ARE DEALT WITH AND OF PERSONS WHO CARRY ON THE BUSINESS OF STOCK OR SHARE DEALERS OR BROKERS.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

\*1. (1) From and after the coming into operation of this Act the owner, occupier, or person having the control of any premises in this Colony shall not permit those premises to be used, either by the public generally or by the members of any association, for the purpose of dealing in stocks or shares therein, unless the premises have been licensed for that purpose by the resident magistrate of the district in which they are situate.

Licensing of premises in which stocks and shares are dealt in.

(2) A licence for any such premises shall not be granted until (a) rules and regulations under which such dealing will be carried on in the premises have been approved by the Governor-in-Council; and

(b) save as is hereinafter provided such security has been lodged with the Colonial Treasurer as the Governor-in-Council may determine to be a sufficient guarantee for the protection of persons dealing in stocks and shares at the premises.

The licence, if granted, shall be issued in the name of the person who desires to carry on the dealing in stocks and shares at those premises, or, in the case where the premises are used by the members of an association formed for facilitating the dealing in stocks and shares, the licence shall be issued in the name of the chairman, manager, or secretary thereof. Anything to the contrary notwithstanding in this section contained, the Governor-in-Council may, in the case of such an association, dispense with the lodging of the security aforesaid, if satisfied that the association does not itself deal in stocks or shares and so long as it does not so deal.

\*2. (1) From and after the coming into operation of this Act no person or body of persons shall, in this Colony, carry on the business of dealer or dealers in stocks and shares outside premises licensed under the last preceding section unless licensed under this section.

Licensing of persons to deal in stocks and shares outside licensed premises.

(2) A licence to carry on the business of dealer or dealers in stocks and shares shall be issued by the resident magistrate of the

\* For instructions relative to applications for licences see Govt. Notice No. 1072 of 1909 (*Gazette*, 17th Sept., 1909, p. 1110).

district in which the premises are situate wherein the business is to be carried on, if that magistrate is satisfied that

(a) the rules and regulations under which the business will be carried on have been approved by the Governor-in-Council; and

(b) such security has been lodged with the Colonial Treasurer as the Governor-in-Council may determine to be a sufficient guarantee for the protection of persons dealing with the licensee.

Rules and regulations may restrict advertisement.

3. Any rules and regulations mentioned in this Act shall contain such restrictions or impose such conditions as the Governor-in-Council may determine, relative to advertisements in respect of stocks or shares dealt in at the premises licensed under section one or by persons licensed under section two.

Publication in *Gazette* of particulars of matters required by this Act.

†4. The Colonial Treasurer shall from time to time publish, by notice in the *Gazette*, the description of the situation of premises licensed under section one, the names of any persons licensed under section two, and the rules and regulations approved and the amount of any security lodged under either of such sections. A copy of the *Gazette* containing such notice shall be prima facie evidence in any court of law, on any charge of contravening this Act, of the facts stated in that notice.

Penalties.

5. Any person who shall contravene any provision of this Act or shall carry on the business of dealer in stocks and shares except in accordance with the rules and regulations approved as aforesaid, shall be guilty of an offence against this Act and liable on conviction to a fine not exceeding two hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding one year, and, in the case of a second or subsequent conviction, to such imprisonment without the option of a fine.

Attachment and forfeiture of security.

6. (1) The security mentioned in section two may be paid over or delivered by the Colonial Treasurer to any officer charged with the duty of levying execution to satisfy the judgment of any competent court in respect of the said stock or share dealings of the licensee.

(2) Such portion of the security mentioned in section one or two as the Governor-in-Council may determine shall be forfeited for the benefit of the Treasury if any conviction be obtained in respect of the premises or against the licensee (as the case may be) for an offence against this Act.

(3) When any security is paid over, delivered, or forfeited under this section, the depositor shall not be deemed to have complied with the requirements of this Act relative to lodging of security, until the amount so paid over, delivered, or forfeited has been replaced.

Title and date of operation of Act.

7. This Act may be cited for all purposes as the Stock and Share Dealings Regulation Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.\*

† As to particulars *re* licences see Notices No. 996 of 1909 (*Gazette* 29/10/09) and No. 1206 of 1909 (*Gazette* 17/12/09).

\* See Proc. No. 62 (Admn.) 1909 (*Gazette*, 13/8/09, p. 686), putting the Act in operation on 1st Oct., 1909.

Act No. 35 of 1909.]

[Promulgated 21st July, 1909.]

## AN ACT

TO FURTHER AMEND THE LOCAL AUTHORITIES RATING.  
ORDINANCE 1903 (ORDINANCE No. 43 OF 1903).

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

## 1. In this Act

“agricultural land” shall mean arable, meadow, or pasture land, market gardens, poultry farms, nursery gardens, plantations, and orchards, but shall not include (a) land occupied as a park together with a house thereon ; or

(b) land used as a garden other than as aforesaid ; or

(c) land kept or reserved for the purposes of sport, athletics, or recreation, or used as a racecourse ;

“council” shall mean the council of a municipality established under any law ;

“principal law” shall mean the Local Authorities Rating Ordinance 1903 (Ordinance No. 43 of 1903).

2. Nothing in sub-section (1) of section *sixty-eight* of the Precious and Base Metals Act 1908 contained shall be construed as amending, or as having amended at the commencement of that Act, either of the third exceptions to the definition of “rateable property” in section *three* of the principal law, whether the exception be in respect of districts included within (A) or districts included within (B).

3. Section *three* of the principal law shall be and is hereby amended as follows :—

(a) By the deletion therefrom of the words “In every district within the Witwatersrand Magisterial District” and the substitution therefor of the words “In the Magisterial Districts of Boksburg, Germiston, Johannesburg and Krugersdorp”.

(b) To the definition of “interest in land” for the purposes of the definition of “rateable property” under (B) shall be added a new paragraph, namely,—

“(6) any lease of land from the Crown, or any lease of a trading stand which has been lawfully granted by the Board constituted in accordance with section *eighty-three* of the Precious and Base Metals Act 1908”.

Interpreta-  
tion of terms.Provisions of  
section *sixty-eight*  
of Act  
No. 35 of 1908  
not to be  
deemed to  
have amended  
the principal  
law.Amendment  
of section  
*three* of  
Ordinance  
No. 43 of 1903  
making land  
leased from  
the Crown or  
leases of trad-  
ing stands on  
mining  
ground  
rateable  
property.

*Local Authorities Rating  
Further Amendment.*

A.D. 1909.]

[Act No. 35.]

(c) To the definition of "Owner" shall be added a new paragraph, namely,—

"(5) in any case where property, situated in a district in which the definition of rateable property under (B) is applicable, is held under lease from the Crown, or in the case of a trading stand held under a lease which has been lawfully granted by the Board constituted in accordance with section *eighty-three* of the Precious and Base Metals Act 1908, the lessee thereof".

Special valuation of agricultural land, etc., for purposes of rating.

4. (1) Notwithstanding anything contained in paragraph (5) of section *six* or in section *seven* of the principal law or in any amendment of those sections, any area of land, not less than three morgen in extent, which is bona fide used exclusively as agricultural land shall be treated by the valuer or valuers as if that area were subject to the perpetual servitude of being used solely as agricultural land, and the amount or sum at which that area shall be valued for the purposes of the valuation roll shall be the full and fair price or sum which the same would, in the valuer's or valuers' opinion, realise if brought to voluntary sale encumbered by that servitude: That sum shall include the value of all dwellings, other buildings or erections and any improvements thereon used in connection with the exclusive purpose for which the area is used.

(2) The provisions of sub-section (1) shall not apply to areas of land within a township unless the Council shall by resolution declare, before the commencement of any valuation under the principal law or any amendment thereof, that those provisions shall apply in the case of any township by reason of its remote situation from the centre of the municipality and by reason of the small percentage of the lots therein occupied for residential purposes. A special valuation under this section shall be made only in respect of an area of not less than three morgen in extent which, being in a township, is composed of contiguous lots in that township not separated by squares, streets, or sanitary passages.

(3) If a valuation of any such area has been made by a council under the principal law or any amendment thereof prior to the coming into operation of this Act, the owner (as in the principal law defined) may, within sixty days from the first day of July 1909, apply to that council that an *interim* valuation of the area be made in accordance with section *thirteen* of the principal law.

(4) As soon as may be after the receipt of the application the council shall cause such an *interim* valuation to be made and the owner shall thereupon be liable to pay rates on such land only upon the value as determined by that *interim* valuation, notwithstanding that a rate on the said area may have become due and payable between the first day of July 1909 and the date of his application; provided that if the value be not determined by that *interim* valuation before the date of a rate so becoming due, interest in respect of so much of that rate as remains unpaid after the date upon which it became due shall not be reckoned until

thirty days after the value of the area according to the *interim* valuation has become fixed and binding in terms of sections *eleven* and *twelve* of the principal law.

5. Anything to the contrary in any law notwithstanding, there shall be cancelled the liability for payment of all rates or interest upon rates owing under the principal law or any amendment thereof to the Council of the Municipality of Potchefstroom by any person in respect of any such interest in land as, under the Transvaal Constitution Letters Patent, 1906, or the Land Settlement Act 1907, has been or may be transferred or ceded to the Transvaal Land Settlement Board, and it shall not be necessary to produce any such receipt or certificate as is described in section *twenty-six* of the principal law in order that the cession or transfer of that interest in land may be passed before the Government official concerned.

Exemption of Mooibank settlers from past liability for payment of rates.

6. This Act may be cited for all purposes as the Local Authorities Rating Further Amendment Act, 1909, shall be read as one with the principal law or any amendment thereof, and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Title and date of operation of Act.

\* The Act was first published in a *Gazette Extraordinary* on the 21st July, 1909.

Act No. 36 of 1909.]

[Promulgated 21st July, 1909.]

## AN ACT

TO PROVIDE FOR THE REGISTRATION OF BUSINESSES OTHER THAN REGISTERED COMPANIES AND CERTAIN OTHER ASSOCIATIONS.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

## PRELIMINARY.

Interpreta-  
tion of  
terms.

1. In this Act unless inconsistent with the context
  - “business” shall mean any business carried on in this Colony by one or more persons (whether in partnership or not) if a licence is required therefor by the Revenue Licences Ordinance 1905 or any amendment thereof or by municipal bye-law, but the term “business” shall not include a business carried on by
    - (a) a company, or foreign company, as defined by the Companies Act 1909 ;
    - (b) a company incorporated by letters patent, Royal Charter, or Act of Parliament of this Colony or of the United Kingdom ; or
    - (c) a society registered under the Co-operative Agricultural Societies Act 1908 or any amendment thereof ;
  - “business name” or “business style” shall mean the name or style under which any business is carried on in this Colony ;
  - “commencement of this Act” shall mean the date upon which this Act came into operation ;
  - “imprisonment” shall mean imprisonment with or without hard labour, as the court which passes sentence may direct ;
  - “licence” shall mean a licence, under the Revenue Licences Ordinance 1905 or any amendment thereof or under municipal bye-law, to carry on a business ;
  - “licence officer” shall mean any officer charged by the Colonial Treasurer or by the council of a municipality (as the case may be) with the duty of issuing licences ;
  - “prescribed” shall mean prescribed by this Act or by regulation ;
  - “~~registrar of companies~~” shall mean the officer ~~carrying out the duties of such registrar under the Companies Act 1909 ;~~

“regulation” shall mean a regulation in force under section sixteen of this Act.

CONDITIONS PRECEDENT TO GRANT, RENEWAL, OR  
TRANSFER OF TRADING LICENCE TO FIRMS.

2. (1) From and after the commencement of this Act every person applying for the grant or renewal of a licence in respect of a business shall make, before the licence officer, an affidavit or a solemn declaration in writing stating

Declarations to be made before licence officers of particulars of businesses.

(a) the business name ;

(b) the nature of the business carried on or to be carried on and, in the case of a new licence, the names of all persons (if any) from whom the business was acquired by the intending licence holder ;

(c) unless the business is a hawker's or pedlar's business, the full addresses of all the premises in this Colony in which the business is intended to be or, in case of an application for renewal of a licence, is being carried on ;

(d) the full name, the usual residence, and all the occupations, of every person intending to carry on, or, in the case of an application for renewal of a licence, actually carrying on the business ;

(e) if in the case of a new licence the intending licence holder is a partnership, the date when the partnership came into existence.

(2) In the case of a partnership, it shall be a sufficient compliance with this section if the affidavit or solemn declaration be made by one partner in this Colony, or, if there be no partner in this Colony, it shall be a sufficient compliance with this section if the affidavit or solemn declaration be made by a person producing to the licence officer a power of attorney, authenticated as required by law, showing that such person is duly authorized to apply for the grant or renewal of the licence on behalf of the partnership.

(3) No licence shall be issued or renewed by a licence officer in respect of any business until the provisions of this section have been complied with.

(4) Nothing in this section shall render it necessary to declare the names of an anonymous or a sleeping partner in the case of an anonymous partnership or partnerships *en commandite*.

3. (1) Whenever there is a change in the style, constitution, personnel, or premises of a business registered under this Act, notice of the change shall, within fourteen days after such change takes effect, be advertised on behalf of the business in three consecutive ordinary issues of the *Gazette* and once in each week for three consecutive weeks in a newspaper circulating in every district wherein the business premises were situate before the change, or, in the case of a hawker's or pedlar's business, wherein the business was being carried on before the change.

Notice of changes in style, constitution, or place of business.

(2) Application in writing shall further be made on behalf of the business for endorsement on the licence of the particulars of the change, and the licence officer shall, if satisfied that the

provisions of sub-section (1) have been complied with, and on production of the licence endorse the licence accordingly, or issue a new licence as the case may require, and make corresponding entries in his register.

Notice of  
transfer  
of business

4. (1) Whenever any person desires to transfer his business, or to transfer or sell, with the view to the transfer or abandonment of any business, any stock-in-trade or other assets held or used for the purpose of such business, notice of the proposed transfer or sale shall be advertised by that person before the date on which the transfer or sale is to take effect in three consecutive ordinary issues of the *Gazette* and once in each week for three consecutive weeks in a newspaper circulating in every district wherein the business premises are situate, or, in the case of a hawker's or pedlar's business, wherever the business is being carried on.

(2) The licence officer shall, notwithstanding anything in the Revenue Licences Ordinance 1905 or any municipal bye-law contained, refuse to issue a new licence or transfer an existing licence in respect of the business unless he is satisfied that the provisions of sub-section (1) have been complied with.

(3) The provisions of sub-sections (1) and (2) of this section shall apply in respect of the devolution of a business by testamentary or intestate succession, save that the prescribed notice shall be advertised by the executor of the deceased licence holder, or, if there be no executor, by any *curator bonis* lawfully appointed to take charge of the estate of the deceased.

(4) No business which has been transferred shall continue to be carried on under a licence in the name of the transferor.

#### REGISTRATION OF BUSINESSES.

5. (1) Every licence officer shall keep, in the prescribed form, a register of every business in respect of which a licence has been, in his office, issued, renewed, or transferred.

(2) The register shall, in addition to the prescribed particulars, contain all the particulars furnished on behalf of a business to the licence officer under the provisions of this Act.

(3) A certified copy of the register shall be transmitted by the licence officer to the registrar of companies not later than the fourteenth day in every month.

6. (1) The registrar of companies shall keep in the prescribed form a register of information furnished to him by licence officers under the last preceding section and an alphabetical index of business names and of persons registered under this Act.

(2) Particulars of such information and such further information as may be from time to time prescribed shall be published in the *Gazette* once every six months by the registrar of companies.

7. (1) The registers kept under the last two preceding sections may on written application be inspected during ordinary office hours by any person on payment of a fee of one shilling.

(2) Copies of any such register or a portion thereof may also be made during the hours in which it is open for inspection on payment of a fee of one shilling for every hundred words or less copied.

Register to  
be kept by  
licence  
officer.

Central  
register to be  
kept by  
registrar of  
companies.

Inspection  
and taking  
copies of  
registers and  
evidence of  
same and of  
certificate of  
registration.



(3) ~~The registrar of companies~~ shall, if required, furnish to any person a certificate of registration of any business under this Act or a certified copy of any portion of the register kept by him. A fee of one shilling shall be payable for such certificate of registration and a fee of one shilling for every five hundred words or less copied shall be payable for every such certified copy.

(4) All fees payable under this section shall be paid by means of revenue stamps affixed to the document, or, in the case of an application for inspection, to the form of application. The licence officer ~~or registrar~~ receiving the fee shall duly deface the stamps in manner required by law.

(5) Every certified copy issued by <sup>a licence officer</sup> ~~the registrar of companies~~ under sub-section (3) shall, if it is duly stamped and purports to be signed and certified by <sup>a licence officer</sup> ~~the registrar of companies~~, be prima facie evidence in all courts and places in this Colony of the facts stated on that copy.

(6) Every certificate of registration, so duly stamped, signed, and certified, shall be conclusive evidence in all courts and places that all the requirements of this Act in respect of registration have been complied with.

#### SPECIAL PROVISIONS AS TO BUSINESS PARTNERSHIPS.

8. (1) Legal proceedings may be instituted by or against the partnership in the registered business style of the partnership without setting forth the names of the individual partners in the notice of motion, summons, declaration, plea or other like document in the proceedings.

Style of partnership, and legal proceedings by or against a partnership.

(2) Legal proceedings may be instituted against a partnership in a court having jurisdiction in any district wherein the registered business premises of the partnership are situate or wherein any registered partner resides.

(3) If a partner whose name forms part of the business style of the partnership retires from the partnership or dies, the remaining partners shall not carry on a partnership under the same style for longer than six weeks after the date of the retirement or death of such partner except with the consent of the retiring partner or, in the case of his death, with the consent of his executor, or failing an executor, a *curator bonis* lawfully appointed to take charge of the deceased's estate.

9. (1) If a partnership is dissolved or the members thereof cease to carry on business as a partnership it shall be the duty of every such member to transmit to the licence officer within fourteen days after the dissolution or cessation (as the case may be) written notice thereof.

Dissolution of partnership or cessation of business.

(2) Whenever a licence officer has received a notice transmitted under sub-section (1) that a partnership has been dissolved or has ceased to carry on business as that partnership, he shall make entries upon his register accordingly.

10. If the separate estate of a partner or the joint estate of a partnership be sequestrated by order of the court or surrendered under the law for the time being relating to insolvency, the licence

Insolvency etc. of partnership.

officer ~~and the registrar of companies~~ shall make entries accordingly in their ~~respective registers~~ and shall further make entries of the fact of any order setting aside a sequestration, or of an order of rehabilitation. The registrar of the court which made any such order or accepted the surrender shall, as soon as may be thereafter, furnish to the licence officer ~~and to the registrar of companies~~ such information <sup>concerned with</sup> as will enable them to carry out the provisions of this section.

## MISCELLANEOUS.

Voidance of certain agreements in relation to businesses.

11. (1) Every agreement entered into after the commencement of this Act for the alienation of a business name from the business to which that name belongs shall be void to all intents and purposes.

(2) Every agreement to transfer or sell any business or to transfer or sell, with the view to the transfer or abandonment of any business, any stock-in-trade or other assets held or used for the purpose of such business or to re-constitute any business shall be void as against creditors of the business unless all the provisions of this Act applicable to the business have been complied with.

Restrictions as to business names.

12. (1) A business may not be registered by a name identical with that by which a business in existence is already registered or so nearly resembling that name as to be calculated to deceive, except where the business in existence is in the course of being dissolved in the prescribed manner; provided that nothing herein contained shall be construed to prevent a business from being registered by the name it actually bears at the date of the commencement of this Act.

(2) A business may not be registered by a name calculated to cause annoyance or offence to any person or by a name suggestive of blasphemy or indecency.

(3) A business may not, without the consent of the Governor, be registered by a name which includes the words "Imperial", "Royal", "Crown", "Empire", "Government", or any other word which imports or suggests that it enjoys the patronage of His Majesty or of the Governor or of the Imperial or Colonial Government; but nothing in this sub-section contained shall be construed as preventing the registration of a business name which was held at the commencement of this Act.

(4) If a business, through inadvertence or otherwise, is registered in conflict with the provisions of this section it shall change its name, and, until it has changed its name, the right to trade under a licence shall be suspended, and, during the period of suspension, the business shall be deemed to be unlicensed.

(5) Nothing in this section shall be construed as preventing the registration of a business name which consists only of one of the christian names and the surname of the licence holder or of any partner of the licence holder who is liable *in solidum* for the partnership debts.

Affidavits and solemn declarations.

13. (1) Every licence officer may require any statement material to the purposes of this Act, if not already verified by the

affidavit or solemn declaration of a particular person, to be so verified by that person.

(2) No stamp duty shall be chargeable upon any affidavit or solemn declaration specifically required by this Act or any regulation, notwithstanding anything contained in the Stamp Duties Amendment Proclamation 1902 or any amendment thereof.

(3) Any person who makes a false statement in any affidavit or solemn declaration made under this Act or a regulation or makes, signs, sends, or delivers any false statement under this Act, knowing the same to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

14. Any person who shall make default in complying with any requirement of this Act, or shall contravene any provision of this Act; shall, if for the default or contravention no penalty is specially provided, be liable on conviction

General penalties for default in complying with Act.

(a) in the case of a first offence to a fine not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding three months; and

(b) in the case of a second or subsequent offence to a fine not exceeding one hundred pounds or in default of payment to imprisonment for a period not exceeding six months, or to both such fine and imprisonment, or to such imprisonment without the option of a fine,

and, in the case of a continuing offence, to a fine not exceeding five pounds for every day during which the offence continues, or in default of payment to imprisonment for a period not exceeding seven days for every five pounds so ordered to be paid.

15. (1) In the case of an offence against this Act by a partnership, the manager and each partner in this Colony (other than such a partner as is described in sub-section (4) of section two) shall be liable to prosecution and to the penalties provided for the offence, unless he shall prove to the satisfaction of the court that the offence was committed without his knowledge, authority, or permission.

Responsibility for contravention of Act by partnership of foreign businesses.

(2) In the case of an offence against this Act in respect of any business, if every proprietor of the business is outside the Colony, the manager or agent in this Colony for the business and every person who carried on the business therein shall be liable to prosecution and to the penalties provided for the offence.

\*16. (1) The Governor-in-Council may from time to time make, alter, or rescind regulations, not inconsistent with this Act or any other law, prescribing

Power to make regulations.

(a) the fees (other than are specially fixed by this Act) to be paid to licence officers and the registrar of companies in respect of matters to be done by those officers under this Act;

(b) the forms of registers to be kept and of certificates of registration and other documents to be given or used for the purposes of this Act, the particulars to be entered in those registers and on those certificates and documents, and the particulars to be from time to time published;

\* For regulations see Govt. Notice No. 1408 of 1909 (*Gazette*, 10/12/09).

(c) the duties of licence officers ~~and the registrar of companies~~ under this Act, and generally for the better carrying out of the objects and purposes of this Act.

(2) Every such regulation or alteration or rescission thereof shall be of force and effect when published in the *Gazette*.

(3) All such regulations or the alteration or rescission thereof shall be laid on the tables of both Houses of Parliament within seven days after the publication, if Parliament be then in session, or if it be not then in session, within seven days after the commencement of its next ensuing session.

Title and date  
of operation  
of Act.

17. This Act may be cited for all purposes as the Registration of Businesses Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.\*

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\* See Proc. No. 63 (Admn.), 1909, putting the Act in force on the 1st Jan., 1910 (*Gazette*, 13/8/09, p. 686).

Act No. 37 of 1909.]

[Promulgated 21st July, 1909.]

AN ACT

TO REGULATE AND CONTROL HORSE, PONY, AND GALLOWAY RACING, TO RESTRICT BETTING AND WAGERING, AND TO PREVENT THE DISSEMINATION OF INFORMATION AS TO BETTING.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Proclamation (Transvaal) No. 33 of 1901 shall be and is hereby repealed together with the provisions of any other law which is repugnant to or inconsistent with the provisions of this Act.

Repeal of  
Proclamation  
(Transvaal)  
No. 33 of 1901.

2. In this Act, unless inconsistent with the context  
“race” shall mean any horse, pony, or galloway race;  
“race card” shall mean any list printed for the use of the public of any events to take place at a race meeting;  
“racecourse” shall mean any land licensed under this Act for the holding of race meetings;

Interpreta-  
tion of terms.

“race day” shall mean, in the area comprised in a radius of ~~twenty-five~~ miles from the General Post Office, Johannesburg, any Saturday or public holiday from the hour of ten o'clock in the forenoon till six o'clock in the afternoon and any other day on which a race meeting may be held under the provisions of sub-section (2) of section ~~four~~, unless any of such days be Christmas Day, Good Friday, or Ascension Day. In any part of the Colony outside that area “race day” shall have the same meaning, but, save as aforesaid, Wednesday shall also be a race day;

“race meeting” shall mean any gathering of the public or of the members of any association of persons to watch a race or races, if the date and place of holding the same have been notified by public advertisement or private invitation;

“bet” shall mean to stake any money or valuable thing by or on behalf of any person, or expressly or impliedly to undertake or promise or agree to stake any money or valuable thing by or on behalf of any person, on any event or contingency of or relating to any race, foot race, cycle race, or any shooting running or boxing contest, or prize fight, but the staking of money or any valuable thing which will be or form part of the prize

to be gained by persons taking part in, or owning animals taking part in, any such race or contest, not being a prize fight, shall not be regarded, for the purposes of this Act, as betting ;

“totalisator” shall mean the instrument, machine, or contrivance commonly known as a “totalisator”, or any other instrument, machine, or contrivance of a like nature, or any scheme for enabling any number of persons to make bets with one another on principles of a like nature.

Whenever in this Act the expressions “foot race”, “cycle race”, or “shooting running or boxing contest” are used, those expressions shall only include races or contests,

(a) the place whereof is a place, to which the public or the members of any club or association have access, or which the public or such members frequent, or to which the public or such members come by invitation ; and

(b) the date whereof has been fixed beforehand.

3. (1) The Attorney-General may, from time to time upon application in writing to him, grant a licence to any person or association of persons to hold race meetings in accordance with this Act on any land in this Colony which is in the lawful occupation of that person or association ; provided that, if the land be proclaimed land, or ground held under mining title, within the meaning of Act No. 35 of 1908 or any amendment thereof, such a licence shall only be granted if the applicant has obtained permission, in accordance with section *sixty-nine* of that Act, to use the land for the purposes of recreation ; provided further that, anything to the contrary notwithstanding in section *seventy* of that Act contained, land for which such permission has been obtained may, during the continuance of the permission, be fenced, with the consent in writing of the Minister of Mines.

(2) Every such licence shall be valid for one year from the grant thereof unless withdrawn under this section, and it may be renewed, unless the holder is convicted of an offence under the next succeeding section committed on or in respect of the land for which the licence is held.

(3) A licence to hold race meetings on any land shall not be granted under this section until rules and regulations under which such race meetings will be carried on upon such land have been approved by the Governor-in-Council.

(4) Every such licence may, at any time, be withdrawn if the holder is convicted of any such offence.

(5) Every such licence shall, in the case of an association, be issued to the secretary or other like officer thereof and may be transferred at the request of the association to the successor in office of the licensee.

(6) Every such licence shall be produced on the demand of any police officer above the rank of sergeant.

(7) The licensee of any racecourse shall be entitled to exclude therefrom any person in accordance with the rules and regulations relating to such racecourse approved as aforesaid.

Licensing of  
racecourses  
by the  
Attorney-  
General.

4. (1) Every person shall be guilty of an offence against this Act who

(a) takes part in, or aids and abets any other persons in taking part in, a race or race meeting except upon a racecourse and upon a race day ;

(b) sells, or offers for sale, or circulates a race card except upon a racecourse and upon a race day, or sells or offers for sale a race card notifying races to be run other than at the race meeting then and there being held.

(2) Whenever Christmas Day falls on a Saturday, or whenever a race meeting has been fixed for any particular race day and the weather or any unforeseen or unavoidable circumstances prevent or render undesirable the holding or continuation of that meeting on that day, the Commissioner of Police may, in his absolute discretion, give to the persons or association of persons who have organized that meeting permission in writing to hold the meeting or continuation of the meeting on a racecourse on another day and such a permission shall be a defence to any charge laid under sub-section (1) (a).

(3) For the purposes of this section the holding of any race meeting shall be deemed an aiding and abetting in the taking part in a race whether or not any race be run, and every person who in any way organizes or arranges the race meeting, shall be deemed to hold that meeting.

5. Every person shall be guilty of an offence against this Act who

(a) bets upon the result of any race, unless the bet be made upon a racecourse on a race day either at sites on that racecourse approved by the Commissioner of Police or by means of a totalisator licensed under section *six* and on, in either case, a race actually taking place on that racecourse on the day upon which the bet is made ;

(b) bets at any time or place upon the result of any foot race, cycle race, or of any shooting running or boxing contest or prize fight ;

(c) being over twenty-one years of age, bets at any time or place with any person under that age, knowing him to be under that age ;

(d) prints any newspaper in this Colony, or publishes in this Colony any newspaper printed therein, containing information of betting odds which relate to any race, foot race, cycle race, or any shooting running or boxing contest or prize fight run, or held, or carried on, in or outside this Colony, unless the result thereof has been determined ;

(e) sells, or offers for sale, or circulates, in this Colony any newspaper or other publication printed or published in South Africa, which has been declared by the Governor-in-Council to habitually contain information of betting odds relating to any such race, contest, or fight, run, or held or carried on in this Colony or outside South Africa unless the result thereof has been determined ;

Prohibition of racing in certain areas except on certain days and at certain places.

Prohibition of betting except upon racecourses, and of publication of betting odds except in certain circumstances.

(f) knowingly disseminates in this Colony in any manner, other than by means of a newspaper, information of betting odds relating to any such race, contest, or fight.

Licensing of  
and tax upon  
totalisator on  
racecourses.

6. (1) The Attorney-General may, in his discretion and upon written application, issue to the holder of a licence granted under section *three*, a further licence to use a totalisator or totalisators on a race day upon any site on a racecourse approved by the Commissioner of Police. That further licence may be revoked at any time if default be made in complying with any provision of this section or if the totalisator be used at any site not so approved.

(2) There shall be payable to the Colonial Treasurer by the licensee

(a) a duty calculated at the rate of two per cent. of the gross takings of each licensed totalisator; and

(b) a duty calculated at the rate of two per cent. of the net takings of each such totalisator which, after a dividend therefrom has been declared, are undistributed either because no fractional part of a shilling is declared as dividend, or because no tickets entitling the holders to a dividend were disposed of; and

(c) a duty calculated at the rate of two per cent. of all such dividends as are unpaid three months after they were declared.

For the purposes of this sub-section "net takings" shall mean the gross takings, less the amount deducted as totalisator commission and duty payable under paragraph (a), but such commission and duty shall not together exceed ten per cent. of the gross takings of any one totalisator.

(3) A statement in a form prescribed by the Colonial Treasurer showing all such particulars as are mentioned in sub-section (2) shall be made by the licensee and verified by his affidavit. That statement so verified shall be transmitted by the licensee to the Colonial Treasurer within twenty-one days after every race day on which a totalisator was used.

(4) The licensee shall enter or cause to be entered regularly in a book kept for the purpose all such particulars as aforesaid and permit the inspection of such book at all reasonable hours by any person authorized thereto in writing by the Colonial Treasurer.

(5) If a licensee make default in transmitting such statement, verified as aforesaid, within the time prescribed, he shall be liable to pay to the Colonial Treasurer treble the amount due to the Colonial Treasurer under this section, and such amount shall be recoverable by action in any competent court.

(6) If inspection of the book aforesaid be refused, the licensee and any person in charge of that book shall be guilty of an offence against this Act.

Settlement  
of bets at  
premises  
specially  
set apart.

7. The Attorney-General may authorize any person or association of persons lawfully holding a race meeting to keep open premises, approved by the Commissioner of Police, for five hours on each of the next two weekdays (public holidays not being reckoned) after that race meeting, and it shall be lawful to settle bets in those premises on those days and during those hours.



8. (1) Any police officer of or above the rank of sergeant may, upon production of his official certificate of appointment as such officer, enter upon any racecourse or in any premises mentioned in the last preceding section and, if he has reasonable grounds for suspecting that a contravention of this Act is taking place or has taken place, may, upon production of the certificate aforesaid, enter upon any premises whatever. Powers of entry of police.

(2) Any person who shall resist, hinder, or obstruct any such officer in the exercise of his powers under this section shall be guilty of an offence against this Act.

9. (1) Any person who is guilty of an offence against this Act shall be liable, Penalties.

(a) in the case of a first conviction, to a fine not exceeding seventy-five pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months; and

(b) in the case of a second or subsequent conviction, to a fine not exceeding one hundred and fifty pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months, and a court of resident magistrate shall have special jurisdiction to impose any such punishment.

(2) Every prosecution for an offence against this Act shall be instituted within one month after the offence is alleged to have been committed.

(3) Whenever in any such prosecution the knowledge or absence of knowledge of the accused is material to the issue, the burden of proving the absence of knowledge shall lie upon the accused.

10. Nothing in this Act contained shall be construed as rendering lawful any act in relation to betting or wagering which was unlawful prior to the date of the coming into operation of this Act, or as permitting the recovery of moneys in respect of betting or wagering contracts or of bets, which were irrecoverable prior to that date. Saving of existing law as to betting and wagering.

11. This Act may be cited for all purposes as the Horse Racing and Betting Restriction Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.\* Title and date of operation of Act.

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\* See Proc. No. 64 (Admn.), 1909, putting the Act in force on 15th Oct., 1909 (*Gazette*, 13/8/09, p. 686).

Act No. 38 of 1909.]

[Promulgated 21st July, 1909.]

## AN ACT

TO PROVIDE FOR THE PREVENTION, SUPPRESSION, AND PUNISHMENT OF CERTAIN OFFENCES AND TO AMEND IN CERTAIN RESPECTS THE LAW RELATING TO THE DETENTION OF CONVICTED PERSONS, AND TO PROVIDE FOR THE ESTABLISHMENT OF INDUSTRIAL SCHOOLS FOR CHILDREN.

(Assented to 7th July, 1909.)

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

## PRELIMINARY.

Interpre-  
tation of  
terms.

1. In this Act, unless inconsistent with the context—
  - “Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice and consent of the Executive Council ;
  - “imprisonment” shall mean imprisonment with or without hard labour as the court which passes sentence for an offence mentioned in this Act may determine ;
  - “place of public resort” shall mean any place of entertainment, amusement, or refreshment to which the public have access, whether by payment for access or otherwise ;
  - “public place” shall mean any place to which the public have access, but shall not include a “place of public resort” as herein described.

## PART I.

## OFFENCES.

Offences  
against  
public  
decency  
and honour.

2. Any person who shall
  - (1) in or near any public place or place of public resort, make use of any insulting, indecent, obscene, blasphemous, or threatening language ;
  - (2) in or within sight of any public place, or in any place of public resort, indecently expose his person or make indecent signs or gestures ;
  - (3) in or from any public place or place of public resort, follow or address any female in an insulting manner ;

Act No. 38 of 1909.]

[Promulgated 21st July, 1909.]

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  - (3) in or from any public place or place of public resort, follow or address any female in an insulting manner ;

- (4) write or transmit, or knowingly be party to the writing or transmission of any communication containing threats of bodily injury to any person, ~~or indecent or obscene matter;~~
- (5) in the hearing or to the knowledge of any other person by speech or writing or other representation use insulting or defamatory language, descriptions, or gestures of or to or concerning any person ;
- (6) manufacture, or sell, or expose for sale, or exhibit any obscene or indecent figure, cast, statue, or model ;
- (7) sell, make, print, circulate, exhibit, or publish any indecent book, paper, pamphlet, photograph, card, picture, or other representation ;
- (8) advertise or cause to be advertised or publish or circulate any publication containing an advertisement of, any means, methods, medicines, drugs, or appliances calculated to prevent or intended for the prevention of conception or calculated to procure or intended for the procuring of abortion ;
- (9) sell, buy, or use any so-called love-philtre, or aphrodisiac or any such matter or thing intended to excite carnal desire ;
- shall be liable on conviction to a fine not exceeding seventy-five pounds or, in default of payment, to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

### 3. Any person who shall

- (1) in any public place or place of public resort and after having been warned to refrain by a police officer or police constable, take part in, or permit, any dangerous performance or the doing of any dangerous act ;
- (2) in any public place or place of public resort, induce or permit any child under the age of sixteen years to take part in any dangerous performance or dangerous act ;
- (3) ~~knowingly point at any person any fire-arm or air-gun, whether with intent to injure that person or not and whether the fire-arm or air-gun be loaded or not, unless allowed or required by law ;~~

Offences in regard to dangerous performances and acts.

shall be liable on conviction to the penalties mentioned in the last preceding section.

### 4. Any person who shall

- (1) give way to the use of intoxicants or drugs or to gambling or to idleness, in such manner that either he or those dependent upon him become destitute or obtain or have to seek relief from others ;
- (2) beg, or neglect to restrain children under his care from begging or from vagrancy, truancy, theft, or contravention of the law regulating the sale of intoxicating liquor ;
- shall be liable on conviction to the penalties mentioned in section two.

Vagrancy and children's protection.

### 5. Any person who, being the keeper or having the management of any place of public resort, shall

- (1) knowingly permit pimps or prostitutes to frequent such place ; or

Offences by keepers of places of public resort.

(2) knowingly suffer prostitution, or procuration for the purpose of prostitution, to be carried on, in or about such place ; or

(3) knowingly suffer gaming or wagering to take place in or about such place ; or

(4) conduct such place otherwise than in an orderly and proper manner ;

shall be liable on conviction to the penalties mentioned in section *two* and upon such conviction the licence (if any) held by him in respect of such place of public resort may in the discretion of the court passing sentence, be forfeited on the first conviction ; and, in the case of a second conviction for any such offence, the licence shall be forfeited and the holder thereof shall be disqualified for a period of two years from holding any such licence ; and whenever two convictions under this section have taken place within a period of three years in respect of the same premises, whether the persons convicted were or were not the same, the court shall direct that for a period not exceeding two years from the date of the last of such convictions no licence as aforesaid shall be issued or renewed to any person whatever in respect of those premises, and any licence if issued or renewed in contravention of this section, shall be void.

The holder of any such licence charged with a contravention of this section shall produce that licence for examination and, if the licence be forfeited under this section, shall deliver it up to the authority which issued it, and if such person shall fail when required so to produce or deliver up the licence he shall, in addition to any other penalty to which he may be liable under this section, be liable on conviction to a fine not exceeding ten pounds or, in default of payment, to imprisonment for a period not exceeding one month.

Divulging secrets or confidential information or knowledge by public servants.

6. Any person who, being an officer in the public service or railway service and as such becoming the recipient or possessor of secret or confidential information or knowledge, shall without authority or lawful cause divulge such information or knowledge, shall be liable on conviction to the penalties mentioned in section *two*.

Newspapers publishing evidence of indecent character.

7. Any person who shall

(a) print, publish, sell, or circulate any newspaper, book, pamphlet, or document containing detailed evidence of an immoral, obscene, indecent, or disgusting character given in any proceedings ;

(b) print, publish, sell, or circulate a newspaper, book, pamphlet, or document containing a report of evidence of any proceedings when in the interests of good order or public morals any members of the public have been excluded from the hearing of those proceedings ;

shall be liable on conviction to the penalties mentioned in section *two*.

Majority of seven on jury may determine a verdict in criminal trials.

8. Section *one hundred and eighty-seven* of the Criminal Procedure Code 1903 shall be and is hereby amended by the deletion therefrom of the words "~~whose verdict must be unanimous~~" and

the substitution therefor of the words "of whom not less than seven shall determine the verdict" and for the purposes of any other provision of the said Code a jury shall be deemed to have agreed or to be able to agree as to its verdict if such number as aforesaid has agreed or is able to agree as to the verdict.

## PART II.

### MODES OF DEALING WITH CONVICTED PERSONS.

9. (1) Any person who, having been convicted on two or more separate occasions (either in this Colony or elsewhere, and whether before or after the coming into operation of this Act) of any such offence as is mentioned in the Schedule to this Act, shall, if he be thereafter convicted in this Colony of any of those offences, be liable to be declared by a judge presiding over any superior court before which he is then convicted an habitual criminal.

Indeterminate sentences for habitual criminals.

(2) An habitual criminal shall be detained with hard labour in a convict prison during the Governor's pleasure, and shall not be released until the board of visitors mentioned in sub-section (6) shall have reported to the Governor that there is reasonable probability that the habitual criminal will in future abstain from crime and lead a useful and industrious life, or that he is no longer capable of engaging in crime or that for any other reason it is desirable to release him.

(3) Upon receiving the report of that board of visitors the Governor may order the release on probation of the habitual criminal for any period, and on any condition as to supervision or otherwise, which the Governor may determine or may order the unconditional release of that criminal.

(4) A person so released on probation who shall fail to observe any condition of his release may be arrested and re-committed to prison by warrant under the hand of the Attorney-General and shall be detained in prison as if he had not been so released.

(5) If a person so released on probation complete the period thereof without breaking any condition of his release, he shall no longer be deemed an habitual criminal.

(6) The Governor shall from time to time appoint a board of visitors for every convict prison, and the Director of Prisons shall furnish each board of visitors at least once in every year with a report in writing containing detailed particulars relative to the history, conduct, and industry of each habitual criminal detained in the convict prison and may, for the purpose of any such report as to conduct or industry, use any system of marking or registering the conduct or industry of the convicts detained therein.†

† For provisions for obtaining this information see amendments and additions to regulations governing management of convict prisons and gaols: Govt. Notices Nos. 1093 and 1094 of 1909 (*Gazette*, 24/9/09, pp. 1187-1188).

Reports on long sentence prisoners.

10. The board of visitors shall further, at least once in every year, furnish to the Governor a report in writing containing detailed particulars relative to the history, conduct, and industry of every convict detained in the convict prison who, whether sentenced before or after the coming into operation of this Act, has completed a period of two years of his sentence. Upon receipt of that report the Governor may, if the same be favourable in regard to any such convict, release him upon probation or remit the remainder of his sentence. If the convict be released upon probation under this section the provisions of sub-section (4) of the last preceding section shall *mutatis mutandis* apply to him; provided that if the convict be re-committed by the application of that sub-section the period of his detention thereafter shall not exceed the unexpired portion of his sentence excluding the period during which he was on probation.

Compensation by first offender for injury to complainant.

11. (1) Notwithstanding anything to the contrary in sections *two hundred and sixty-two*, *two hundred and sixty-three* and *two hundred and sixty-four* of the Criminal Procedure Code, 1903, contained, any court before which a person may be convicted and sentenced for the first time for an offence against property or against the person (other than murder or rape or assault with intent to commit those offences or indecent assault), may suspend the operation of the sentence for such reasonable time as will allow such person to compensate the person to whom damage or injury has been caused by the offence.

(2) That court shall proceed forthwith to determine the amount of the compensation, and, if the condition upon which the sentence was suspended be fulfilled, the offender shall be deemed to have received a free pardon for the offence.

(3) If that condition be not fulfilled the offender may be arrested without warrant and shall thereupon be committed by the court to prison to undergo the said sentence.

Power of court to suspend operation of sentence passed by

12. (1) Whenever a person is convicted of an offence, not punishable with death, before a superior court the judge presiding thereat may order the operation of the sentence to be suspended on conditions to be mentioned in the order. That person shall thereupon be released, but if he fail to observe any condition of his release he may be arrested and committed to prison by warrant under the hand of the Attorney-General, there to undergo the sentence passed upon him for the said offence.

(2) The powers conferred by this section upon a judge may also be exercised by any court of resident magistrate.

Board of visitors for reformatories established under Ord. No. 6 of 1906.

13. (1) Notwithstanding anything to the contrary in Part VIII of the Prisons and Reformatories Ordinance, 1906 (No. 6 of 1906), the Governor shall appoint a board of visitors for every reformatory established under that Ordinance or any amendment thereof.

(2) Such board shall have the same powers, duties, and jurisdiction as are conferred and imposed on the board of visitors mentioned in sections *nine* and *ten*, and may further report to the Governor that any inmate of a reformatory is incorrigible and exercising an evil influence over the other inmates thereof.

(3) Upon consideration of any such last described report the Governor may commute the remainder of such inmate's sentence of detention in a reformatory to such period of imprisonment in a prison or gaol as the Governor may determine.

14. (1) A white person who is apparently under the age of sixteen years and charged with any offence shall not, without the written authority of the Director of Prisons, be detained in any prison, gaol, or lock-up while awaiting trial. Detention of juvenile offenders awaiting trial.

(2) Save as in this section is otherwise provided, every such person shall be detained in some place generally or specially determined by the Director of Prisons in consultation with the Commissioner of Police :

Provided that any police officer may, unless

(a) the charge made against such person be that of homicide or any other serious offence ; or

(b) in the opinion of such officer, it be necessary to remove such person from the association of persons of bad character ; or

(c) the ends of justice are likely to be defeated, release from custody a person detained in accordance with subsection (2), if his parent or guardian will enter into recognizances, with or without sureties, for his appearance when required to answer the charge made against him.

15. Anything to the contrary notwithstanding in Part VIII of the Prisons and Reformatories Ordinance 1906 (No. 6 of 1906) a court of resident magistrate may commit any male European child of any age under the age of eighteen years, convicted before that court to a reformatory to be detained therein for a period of not less than two years, but not after he has attained the age of twenty years, or he may be apprenticed to some useful calling or occupation and until he has attained the age of twenty years. Committal to reformatories of male children under eighteen by courts of resident magistrate.

\*16. Any European child under the age of eighteen years who Detention in industrial schools.

(a) is found wandering and not having any home or settled place of abode or visible means of subsistence, or is found wandering and having no parent or guardian or a parent or guardian who does not exercise proper guardianship ; or

(b) is found destitute or having both parents or the surviving parent, or in the case of an illegitimate child, the mother undergoing imprisonment ; or

(c) is under the care of a parent or guardian or other person who, by reason of criminal or drunken habits, is unfit to have the care of the child ; or

(d) is the daughter, whether legitimate or illegitimate, of a father who has been convicted of a sexual offence against any of his daughters ; or

(e) frequents the company of any reputed criminal or of any known or reputed prostitute ; or

(f) cannot be controlled by the parents or refuses to attend or deserts from school ; or

\* See Act No. 7 of 1910, sec. 1. For regulations framed under this section see Govt. Notice No. 1095 of 1909 (*Gazette*, 24/9/09).



(g) is lodging or residing in a house or room used by any prostitute or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction, corruption, or prostitution of the child ; or

(h) being also under the age of fourteen years, is found in any public place or place of public resort, begging, or singing or performing for money or any other remuneration, or is in any such place for any such purpose ; or

(i) falls within the provisions of sections *eleven* or *twelve* of the Criminal Law Amendment Act 1908 ; or

(j) being a girl, is convicted of any crime for which any sentence of imprisonment may be imposed,

may, at the instance of any person or of any society working for the reclamation of children, be ordered by a judge or by a resident magistrate sitting *in camera*, except where the order is a consequence of a trial held in public, to be sent to a Government industrial school under such regulations as shall be framed by the Governor from time to time ; and such regulations shall provide (*inter alia*) for the establishment of a board of management and for the appointment of an inspector under the control of the Attorney-General, and no child lawfully sent to such an industrial school shall leave the same except upon recommendation of the said board to the Attorney-General, or, in the case of a girl mentioned in paragraph (j) of this section, upon a recommendation of the said board to the Governor, and any child unlawfully deserting from the same shall be subject to such punishments as may be determined by the said regulations, but not exceeding those determined by law or regulation in force in regard to reformatories:

Where any child has under this section been ordered to be sent to an industrial school the Attorney-General may, if such course shall appear to be in the interests of such child, authorize the placing of such child in the custody of any person in charge of a charitable institution, and the detention of such child in such institution instead of in an industrial school for such period as he may think fit.

No child, other than a girl convicted of crime, shall be compulsorily detained in such a school or institution after reaching the age of eighteen.

The court by which any order is made under this section may apply the provisions of the Criminal Law Amendment Act 1908 (Act No. 16 of 1908), so far as the same are applicable, for the purpose of enforcing payment by the child's parent or guardian of the child's maintenance in such an industrial school or institution.

17. This Act may be cited for all purposes as the Criminal Law Amendment Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.\*

Title and  
date of  
operation  
of Act.

\* See Proc. No. 65 (Admn.), 1909, putting the Act in force on 1st Oct., 1909 (*Gazette*, 13/8/09, p. 687).

*SCHEDULE.*

Rape.

Robbery.

Assault with intent to commit any of those offences or in which a dangerous wound is given or indecent assault.

Arson.

Forgery or uttering forged documents knowing the same to be forged.

House breaking with intent to commit an offence.

Fraud.

Theft.

Receiving stolen property well knowing the same to have been stolen.

Offences described in parts A B or C of Ordinance No. 26 of 1904.

Offences described in Ordinance No. 46 of 1903 or any amendment thereof.

Offences described in Ordinance No. 63 of 1903.

Offences described in Chapter XII of Act No. 35 of 1908 or any regulations made under that Chapter.

Act No. 39 of 1909.]

[Promulgated 21st July, 1909.]

## A PRIVATE ACT

TO PROVIDE FOR THE REGISTRATION OF ARCHITECTS IN THE  
TRANSVAAL.

(Assented to 7th July, 1909.)

WHEREAS it is expedient to provide for the registration of persons publicly practising, or entitled to practise publicly, as architects in the Transvaal, so as to distinguish qualified from unqualified persons ;

And whereas it is necessary to provide a qualification for admission to the Register of Architects ;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

Use of title  
of architect  
restricted.

1. After the expiration of six months from the coming into operation of this Act no person shall describe or hold himself out as an architect or use any name, title, addition, or description, or letters indicating that he is an architect, whether by advertisement, by description in or at his place of business, or residence, by any document, or otherwise, unless he is registered as an architect in pursuance of this Act.

Penalty for  
infringement.

2. Any person contravening any of the provisions of section one hereof shall be liable to a fine not exceeding one hundred pounds for each offence and in default of payment to imprisonment for a period not exceeding six months.

Association of  
Transvaal  
Architects.

3. Upon the coming into operation of this Act there shall come into existence a body corporate by the name of "The Association of Transvaal Architects" with perpetual succession and the right to use a common seal and to sue and be sued in its corporate capacity, and the said body corporate shall be capable in law of taking and holding any movable or immovable property for the benefit and purposes of the association with power to dispose thereof, but so that the association shall apply its funds and assets in promoting the objects of the association and shall not at any time pay any dividend to its members. Every person registered as an architect as hereinafter provided shall upon such registration *ipso facto* become a member of the said association.

Appointment  
of the  
provisional  
council.

4. Upon the coming into operation of this Act there shall come into existence a provisional council consisting of the following persons, namely :—

WALTER REID, F.R.I.B.A. ;  
HERBERT BAKER, F.R.I.B.A. ;  
G. A. H. DICKSON, F.R.I.B.A. ;

FRANK EMLEY, F.R.I.B.A.;  
 ARCHER HOSKING, A.R.I.B.A.;  
 W. H. STUCKE, A.R.I.B.A.;  
 HARRY CLAYTON, M.S.A.;  
 J. F. BEARDWOOD, M.S.A.;  
 R. HOWDEN, A.R.V.I.A.;  
 G. H. VEALE;  
 F. G. McINTOSH;  
 W. J. DE ZWAAN;  
 G. ST. J. COTTRILL;

who shall be the first members of the Association of Transvaal Architects and shall forthwith cause their names to be entered upon the register thereof. The provisional council shall, subject to the provisions of this Act, exercise all the powers of the association until the council hereinafter mentioned shall come into office.

Should any of the said persons die or become incapacitated, or refuse to become or remain members of the said provisional council, the Governor-in-Council may appoint other qualified persons in their place.

5. Upon a day to be fixed by the President of the Transvaal Institute of Architects, but not later than one month from the coming into operation of this Act, the provisional council shall meet at Johannesburg and shall at such meeting elect a president. In the absence of the president at any meeting the members of the provisional council present shall elect one of their number to preside.

Proceedings  
of the  
provisional  
council.

At any meeting of the provisional council five members personally present shall constitute a quorum, and a majority of the members present shall decide every question to be decided by such meeting, except admission to the register, on which a majority of the whole council shall vote, and fourteen days' notice shall be given of all meetings at which the admission of members is to be dealt with.

Subject to the provisions of this Act the provisional council are hereby empowered to regulate their meetings and the proceedings thereat and the mode of carrying on the business of the association and shall remain in office until six months after the date of the coming into operation of this Act.

The provisional council shall have power to appoint a clerk or registrar and such other officers as they may deem necessary for the purpose of the association.

6. The provisional council shall forthwith open a register in which any person shall be entitled to be registered as an architect in pursuance of this Act who proves to the satisfaction of the provisional council within six months next after the coming into operation of this Act that at the date of the coming into operation of this Act he was resident in British South Africa, and

Persons  
entitled to be  
registered  
by the  
provisional  
council.

(a) was a member of the Transvaal Institute of Architects or of any other institute or society of architects of equal standing; or

(b) was publicly and bona fide practising as an architect in the Transvaal; or

(c) was at such aforesaid time, or prior to the coming into operation of this Act, engaged as an assistant to an architect in the Transvaal and has had at least seven years' professional experience ; or

\*(d) that he is possessed of qualifications and experience which may be declared by the Governor-in-Council by proclamation to be equal to those in one or other of the foregoing instances.

Persons entitled to be registered by the council.

7. Upon the expiration of six months from the date of the coming into operation of this Act no person shall be entitled to be registered in the said register as an architect unless he shall prove to the satisfaction of the majority of the whole council hereinafter mentioned that at the date of his application for registration he is resident in British South Africa and has attained the age of twenty-one years ; and

(a) has passed the examination for associateship of the Royal Institute of British Architects or the examination for membership of the Society of Architects of London or the examination or examinations conducted by the council and prescribed by the bye-laws of the association or some other examination which may be declared by the Governor-in-Council by proclamation to be equivalent to one or any of these examinations, and has in addition had at least four years' professional and practical experience as an assistant to an architect ; or

(b) that prior to, or at the time of, the coming into operation of this Act he was registered as an associate or fellow of the Royal Institute of British Architects or as a member of the Society of Architects of London or the Transvaal Institute of Architects or of some other society or institute of architects which the Governor-in-Council may by proclamation declare to be of a standing equal to that of one of the said institutions.

Applicant refused by council may apply to Supreme Court.

8. Where the council has refused to register the name of a person applying to be registered under sections *six* and *seven*, such person may apply on notice of motion to the Supreme Court for a review of the decision of the council, and the said court may thereupon make such order as it may deem fit.

Register.

9. The provisional council or the council, as the case may be, shall, within a week after the registration of any person under this Act, transmit to the Colonial Secretary a duplicate of the said entry and the Colonial Secretary shall cause a duplicate of the aforesaid register to be kept in his office. Every change affecting the register shall be noted therein and notified to the Colonial Secretary.

Registration fees.

10. No person shall be placed upon the register until he has paid such registration fee, not exceeding five guineas, as shall be fixed by the provisional council or the council, as the case may be.

Resignation by members.

11. It shall be lawful for any person whose name has been placed on the said register and whose professional conduct is not then the subject of investigation at any time to resign by writing

\* See Proc. (Admn.) No. 97 of 1909.

under his hand addressed and delivered to the council and thereupon his name shall be removed from the said register and he shall cease to be registered as an architect and to be a member of the association.

12. Every member of the association shall pay an annual subscription at such time and of such amount as shall be fixed by the bye-laws framed as hereinafter provided; provided however that members who have ceased to practise shall be entitled to remain on the register without being liable to pay such subscription but shall not be entitled to be officers of the association or to be present or vote at any of the proceedings of the association or to be reckoned in any quorum unless they shall have paid such subscription. Annual subscription.

13. All sums of money due by members to the association for registration fees or subscriptions may be recovered in the court of any resident magistrate within whose jurisdiction the debtor may reside. An affidavit by the secretary setting forth the necessary facts shall, in cases by default, be prima facie evidence upon which the court may grant an order or pronounce judgment by default in such suit and such judgment shall be enforceable in ordinary course of law. Recovery of subscription.

14. On such day during the currency of the sixth month next after the date of the coming into operation of this Act as the provisional council shall appoint they shall convene a meeting in Johannesburg of all persons whose names appear upon the register at the date on which the notices convening such meeting are issued, such notices to be posted to the registered address of such persons at least fourteen days before the date fixed for the said meeting, and at such meeting the persons present or represented by proxy in writing shall proceed to elect in manner to be provided by the provisional council a council of twelve members who shall come into office upon the expiration of six months from the date of the coming into operation of this Act and thereupon the provisional council shall cease to exist. The council shall hold office until the date of the first or next annual general meeting as the case may be when they shall retire from office. Election of the council.

15. The following acts and practices, whether of commission or omission, upon the part of any architect shall be offences under the provisions of this Act and, if found guilty by the Supreme Court of having committed or engaged in any one or more of such acts or practices, such architect shall be liable to be suspended from practice for any period that may be decided on by the said court or to have his name removed from the register as hereinafter provided; that is to say:— Offences.

(a) allowing any person except a registered architect in partnership with himself to practise in his name as an architect;

(b) directly or indirectly sharing his professional remuneration with any person, not being a registered architect in partnership with him, or directly or indirectly accepting any share of the professional remuneration of such person or any commission or bonus thereon;

- (c) signing accounts, statements, reports, specifications, plans, or other documents purporting to represent any architectural work performed by himself which work shall not have been performed under his personal supervision or direction ;
- (d) directly or indirectly paying a person a commission for bringing him work, giving any person monetary or other consideration as a remuneration for bringing him work, or for inducing other persons to give him work ;
- (e) touting or otherwise improperly obtaining or attempting to obtain work ;
- (f) performing any architectural work in connection with any matter which is the subject of dispute or litigation upon condition that only in the event of the said dispute or litigation ending favourably for the party for whom the work is performed shall payment be made for such work ;
- (g) conducting himself unprofessionally or dishonourably in connection with any work performed by him as an architect ;
- (h) wilfully disobeying refusing or neglecting to carry out and perform any bye-law or order lawfully adopted and established by the association regarding any point of professional practice ;
- (i) engaging in any practices or performing any acts similar to those acts and practices prohibited in the foregoing sections.

Inquiries  
into conduct  
of members.

16. If the conduct or behaviour of a member of the association shall appear to the provisional council or the council to require investigation, they shall, before proceeding against such member in the Supreme Court as provided in the next succeeding section, hold an inquiry and, if required by such member, hear evidence on the matter. Eight days' written notice of the charges against him and of the date of such inquiry shall be given to the member concerned, who shall be entitled to appear at such inquiry to answer such charges and to produce evidence on his behalf, and his own evidence (if any) shall be admissible against him in any other proceedings, civil or criminal. If such member requires evidence to be heard the provisional council or council may also hear evidence against such member. Where evidence is to be heard the president or vice-president may administer the oath to witnesses and such witnesses shall be subject to the law relating to perjury.

Proceedings  
for suspension  
and removal  
of members.

17. In the event of any member of the association, being in the opinion of the provisional council or council guilty of any act or omission prohibited by this Act, or offending against any bye-law or regulation framed thereunder, the provisional council or the council may call upon such member to show cause to the Supreme Court of this Colony why he should not be prohibited from practising as an architect, and why his name should not be removed from the register. All such proceedings shall be taken in the name of the association. Upon the hearing of any such matter the court may suspend such member from practice, remove his name from the register or make such other order as may seem fit and may further make such order as to costs as may

seem fit. In case of such suspension or removal, copies of the order of court shall be lodged with the Colonial Secretary and the association and noted in the register.

18. In case any member of the association shall in consequence of an order of court be suspended from practising as an architect in this Colony, such person shall, during such time as he is suspended, cease to be a member of the association, but shall nevertheless be liable to pay all moneys due by him up to the date of such suspension.

Penalties.

19. No claim against the assets of the association shall exist in the case of, or be made by, any person whose name has ceased to appear upon the register of the association.

Persons having no claim against the assets of the association.

20. Every person whose name appears on the register shall be entitled to style himself "Registered Architect, Transvaal".

Titles allowed to members of the association.

21. The council shall, upon being elected to office, forthwith frame rules and regulations for regulating the examinations or equivalents thereto which shall be required of applicants for registration under section *seven* of this Act.

Rules and regulations for examinations.

22. The council shall have power to do each and all of the following acts:—

Powers of the council.

- (a) to manage and superintend the affairs of the association;
- (b) to appoint and remove any servants of the association and to determine the duty, salary, and remuneration of the same;
- (c) to accept or refuse for good cause any application for registration made in pursuance of this Act;
- (d) to hold examinations for applicants for registration and to grant certificates to such persons as have satisfied the examiners in such examinations;
- (e) generally to exercise all the powers of the association, except such powers as are expressly reserved by this Act to the association in general meeting.

23. No person who is in arrear with his subscription shall be qualified to be present or vote or be reckoned in a quorum at any meeting of the provisional council, or council, or of members, while he is so in arrear.

Persons in arrear with subscription not qualified to vote.

24. There shall be held once in each year a general meeting of the association whereat every architect upon the register who is not disqualified under section *twelve* hereof shall be entitled to vote personally or by proxy in writing. The quorum for such general meeting shall be fixed by the bye-laws.

General meetings.

Any question to be decided at such meeting shall be decided by a majority of the members present or represented thereat.

The council shall prepare as at the thirty-first of December in each year a balance-sheet of the affairs of the association and an account of all moneys received and expended by the association and submit such account duly audited to the association at such general meeting for discussion and approval. The officers of the association who shall consist of the members of the council and of



a president and two vice-presidents (who shall, however, be members of the council) shall be elected annually at such meeting, and the said officers shall retire annually but shall be eligible for re-election.

It shall be lawful for any member or members of the association at such meeting to move any resolution which is not inconsistent with the purposes and provisions of this Act.

Chairman's  
vote.

25. The person presiding over the provisional council or council or at any general meeting shall have a deliberative as well as a casting vote.

Meeting to  
pass bye-laws.

26. The provisional council shall forthwith prepare draft bye-laws for the association for the purposes enumerated in the next succeeding section and shall convene a special general meeting of the association in Johannesburg to be held not later than six months from the date of the coming into operation of this Act for the purpose of considering and, if approved, of adopting the said bye-laws. The notice convening such meeting shall be sent to the registered address of each member of the association not later than fourteen days before the day appointed for such meeting, and shall be accompanied by a copy of the said bye-laws.

A majority of the members personally present or represented by proxy in writing at such meeting shall be sufficient to determine all matters to be decided thereat and the non-receipt of the said notice or copy of the proposed bye-laws by any member or members shall not invalidate the proceedings at the said meeting, provided that one-third of the number of members then on the register shall be present personally or be represented by proxy in writing.

Purposes for  
which bye-  
laws may be  
made.

27. The council may from time to time, subject to the approval of the association assembled in a special general meeting called for the purpose, make bye-laws for any of the following purposes, provided that such bye-laws be not inconsistent with the provisions of this Act, and may alter, amend, or repeal such bye-laws including the bye-laws framed under the last preceding section, that is to say:—

- (a) for fixing the amount of the annual subscription payable by members and the time of payment of the same ;
- (b) for defining what shall be considered unprofessional or dishonourable conduct on the part of an architect ;
- (c) for regulating the time, mode, and place of summoning and holding ordinary and special general meetings and the quorum to be present thereat and the mode of voting and the conduct of proceedings at any such meetings and the regulations for the adjournment thereof ;
- (d) for regulating the meetings of the council and the quorum to be present thereat ;
- (e) for regulating the mode of nomination of members for election to the council and the mode of filling casual vacancies thereon ;
- (f) for regulating the times and places for holding examinations of applicants for registration and the subjects and the manner of conducting or holding any such examinations, and

for fixing a reasonable fee to be paid by applicants and the conditions on which the examiners shall hold office and their remuneration ;

(g) for regulating the mode of election of the officers of the association ;

(h) for fixing a tariff prescribing the remuneration which architects shall be entitled to charge for their services ;

(i) for determining the qualification and disqualification of councillors ;

(j) and generally such bye-laws as from time to time seem to the association requisite for giving effect to the provisions of this Act and for the furtherance of the objects of the association.

28. No alteration in the bye-laws as adopted at the special general meeting referred to in section *twenty-six* shall be made save by a majority of two-thirds of the members personally present or represented by proxy in writing at the special general meeting convened for the purpose of sanctioning such alteration. Notice of such meeting, and of the alteration or alterations to be proposed thereat, shall be sent by post to the registered address of each member of the association at least fourteen days before the date fixed for the meeting but the non-receipt of such notice by any member or members shall not invalidate the proceedings thereat provided that one-third of the members then on the register shall be personally present or be represented by proxy in writing.

Alteration of bye-laws.

†29. No bye-law framed and adopted under sections *twenty-six* and *twenty-seven* of this Act and no alteration amendment or repeal of any such bye-law shall have any force and effect until the same shall have been approved of by the Governor-in-Council and published in the *Gazette* whereupon they shall have the force of law and shall be binding upon all members of the association in so far as the same are not in conflict with the provisions of this Act.

Bye-laws—when to take effect.

†30. The Governor-in-Council shall at all times have the power to repeal the existing bye-laws of the association and may from time to time alter amend and add to such bye-laws, provided that such alteration amendment and addition be not in conflict with the provisions of this Act.

Repeal of bye-laws by Governor-in-Council.

31. The council may allocate such sum or sums of money as shall be proved to their satisfaction to have been expended in promoting this Act, and which sum or sums are, in the opinion of the council, reasonable, and may order the same to be paid through their treasurer to the body or bodies, person or persons, who may establish the claim or claims within twelve months of the coming into operation of this Act.

Costs of promoting this Act.

32. This Act may be cited for all purposes as the *Architects Private Act 1909* and shall come into operation and have the force of law on the publication thereof in the *Gazette*.\*

Title and date of operation of Act.

† For bye-laws see Govt. Notice No. 574 of 1910 (*Gazette Extraordinary*, 30/5/10).

\* The Act was published in a *Gazette Extraordinary* on the 21st July, 1909.

1910

Act No. 1 of 1910.]

[Promulgated 17th May, 1910.

AN ACT

TO MAKE BETTER PROVISION FOR HIGHER EDUCATION IN ARTS  
AND SCIENCES IN THE TRANSVAAL AND FOR OTHER PURPOSES.

Assented to 27th April, 1910.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

Interpreta-  
tion of terms.

1. In this Act, unless inconsistent with the context—

“Governor” shall mean the officer for the time being administering the Government of this Colony, acting by and with the advice of the Executive Council thereof ;

“Minister” shall mean the Colonial Secretary or any other Minister to whom the Governor may from time to time assign the administration of this Act ;

“Council” shall mean the body constituted in accordance with the provisions of section *four* of this Act ;

“donor” shall mean any person or corporation contributing to the funds of the institution established by this Act a capital sum of not less than two thousand five hundred pounds or an annual sum of not less than one hundred and fifty pounds.

Abrogation  
of existing  
constitution  
of Transvaal  
University  
College.

2. The constitution of the Transvaal University College, framed under Ordinance No. 7 of 1903, and from time to time amended, is hereby abrogated.

Establish-  
ment and  
incorporation  
of  
Transvaal  
University  
College.

3. (1) From the date of coming into operation of this Act, there shall be established at Pretoria an institution entitled “The Transvaal University College”, the objects of which shall be to provide courses of instruction and training, to conduct examinations, and to grant certificates in the arts and sciences and in such other subjects as the Governor may from time to time approve.

(2) The said college shall be a body corporate with perpetual succession, and shall under the name of the Transvaal University College be capable of suing and being sued, and of purchasing or otherwise acquiring, holding, and alienating property movable and immovable and of doing and performing such acts as they as bodies corporate may by law do and perform, subject to the provisions of this Act.

4. The governing body of the said institution shall be a Council consisting of not less than ten members who shall be appointed by the Governor and shall hold office for a period of five years subject to the provisions hereinafter contained; provided that the Governor may add to the said number of members of the Council for a similar term any person or persons approved by him as representative of any donors, and a representative or representatives of not less than fifty students of the said institution who have graduated therein, or have passed a qualifying examination recognized by the Council as equivalent to graduation therein.

Constitution of governing body.

5. On the thirtieth day of June, 1911, and on the thirtieth day of June in every year thereafter two members of the Council shall retire and their places shall be filled by other persons appointed in like manner. The order of retirement shall, unless such members otherwise agree amongst themselves, be determined by ballot immediately after the first appointment. A retiring member shall be eligible for reappointment.

Retirement of members of governing body.

6. A member of the Council shall vacate his office—

(a) if he become insolvent or assign his estate for the benefit of or make any arrangement with his creditors;

(b) if he become of unsound mind or be convicted of any offence and sentenced to imprisonment therefor without the option of a fine;

(c) if he be absent from such number of consecutive meetings of the Council without the leave of the Council as may be provided for in the by-laws of the Council;

(d) if he resign his membership or when he retires in accordance with section *five*.

Vacation of office of members of governing body.

7. Any vacancy among the members of the Council caused by death or any of the circumstances described in the last preceding section shall be filled in the manner provided in section *four* and a member so appointed to fill the vacancy shall hold office for the remainder of the period for which the member so vacating office but for such vacation of office would have held the same.

Filling of vacancies.

8. The Council shall appoint from among its members a chairman and a vice-chairman who shall hold office for such period as the Council may determine.

Appointment of chairman and vice-chairman of the Council.

9. The powers and functions of the Council shall be—

(a) to establish and carry on courses of instruction and training, to conduct examinations and grant certificates in the arts and sciences and such other subjects as the Governor may from time to time approve;

(b) to pass all rules of order and by-laws which may be deemed necessary for the proper conduct of business by the Council or any committee thereof and to delegate such powers to such committees as the Council may think fit;

(c) to confirm existing engagements of members of the staff, to engage teaching and administrative staffs and such other servants as may be required, and to prescribe the conditions of service of and to terminate such engagements;

Powers, etc., of Council.

(d) to establish a committee of the teaching staff to be called the Senate, to determine the conditions of membership and the duties and functions thereof, and to make such arrangements as will secure that the advice of the Senate is available for the members of the Council when necessary ;  
(e) in its discretion to admit, suspend, and expel students and to prescribe such regulations as may be necessary for the maintenance of order and discipline ;

(f) to fix, levy, and collect the tuition fees of the students and the boarding fees of the resident students and staff ;

(g) to acquire, hold, administer, and from time to time to sell, lease, or otherwise dispose of movable and immovable property ; provided that no immovable property shall be sold or otherwise disposed of without the approval of the Governor ;

(h) to borrow money upon security of mortgage bonds, debentures or otherwise, subject to the approval of the Governor ;

(i) to hold and administer any trust which may be committed to it for bursaries, scholarships, or otherwise ;

(j) to hold, invest, and disburse moneys which may be subscribed or donated for the purposes of the institution ;

(k) to recover all moneys which may at any time be due to the Council, and to frame and enforce rules for the signature of contracts, powers of attorney and other documents and for the conduct of any legal proceedings for or against the Council ;

(l) to establish and maintain one or more hostels for the use of the students ;

(m) to do all such other acts as may be necessary to promote the interests and carry out the objects of the institution.

10. A portion hereafter to be determined of the piece of ground in Pretoria known as the Sunnyside Town Lands, reserved for educational purposes, with the buildings thereon, shall be vested in the Council.

11. All movable assets or other property belonging at the date of the coming into operation of this Act to the Transvaal University College in connection with the Pretoria branch thereof are hereby transferred to and vested in the University College by this Act established, and the Council shall take over all obligations and administer all trusts which at the date of the coming into operation of this Act are binding upon or administered by the Transvaal University College in connection with its Pretoria branch, and all bursaries or scholarships held or granted at that date in connection with the Pretoria branch of the Transvaal University College shall so long as they continue in existence be deemed to be so held in connection with the University College by this Act established.

12. (1) The Governor may from time to time make, alter, and rescind regulations not inconsistent with the provisions of this Act for the better carrying out of the objects and purposes thereof.

Vesting of certain property in Pretoria in the Council.

Property belonging to former University College vested in College established by this Act.

Regulations.

(2) All such regulations, and any alteration or rescission thereof, shall, within seven days after the same take effect, be laid on the tables of Parliament, if Parliament be then in session, or, if it be not then in session, within seven days after the commencement of its next ensuing session.

13. This Act may be cited for all purposes as the Transvaal University College Incorporation Act, 1910, and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Title and  
date of  
operation of  
Act.

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\* Published in *Gazette* of 17th May, 1910.

Act No. 2 of 1910.]

[Promulgated 17th May, 1910.

AN ACT

TO PROVIDE FOR AGRICULTURAL EDUCATION IN THE TRANSVAAL  
AND FOR OTHER PURPOSES.

Assented to 27th April, 1910.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows—

Interpreta-  
tion of terms.

1. In this Act, unless inconsistent with the context—  
“Governor” shall mean the officer for the time being administering the Government of this Colony acting by and with the advice of the Executive Council thereof ;  
“Minister” shall mean the Colonial Secretary or any other Minister to whom the Governor may from time to time assign the administration of this Act ;  
“Council” shall mean the body constituted in accordance with the provisions of section *three* of this Act ;  
“donor” shall mean any person or corporation contributing to the funds of the institution established by this Act a capital sum of not less than two thousand five hundred pounds or annual sum of not less than one hundred and fifty pounds.

Establish-  
ment and  
incorporation  
of Transvaal  
College of  
Agriculture.

2. (1) From the date of coming into operation of this Act there shall be established at Pretoria an institution called the Transvaal College of Agriculture, the objects of which shall be to provide courses of instruction and training, to conduct examinations and to grant certificates in agricultural and veterinary sciences and allied subjects and such other subjects as the Governor may from time to time approve and to assist investigation and research in connection therewith.

- (2) The said institution shall be a body corporate with perpetual succession, and shall, under the name of the Transvaal College of Agriculture, be capable of suing and being sued and of purchasing or otherwise acquiring, holding or alienating property movable or immovable and of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Act or any amendment thereof.

Governing  
body of the  
College of  
Agriculture.

3. The governing body of the said institution shall be a Council consisting of not less than ten members, who shall be appointed by the Governor and shall hold office for a period of five years, subject to the provisions hereinafter contained ; provided that the Governor may add to the said number of members of the Council for a similar term any person or persons approved by him as representative of any donors and a representative or

representatives of not less than fifty students of the said institution who have graduated therein or have passed a qualifying examination recognized by the Council as equivalent to graduation therein.

The governing body shall be appointed as soon as possible after the coming into operation of this Act.

4. On the thirtieth day of June following the year in which the governing body is first appointed and on the thirtieth day of June in every year thereafter, two members of the council shall retire and their places shall be filled by other persons appointed in like manner. The order of retirement shall, unless such members otherwise agree amongst themselves, be determined by ballot immediately after the first appointment. A retiring member shall be eligible for reappointment.

Retirement of members of the governing body.

5. A member of the Council shall vacate his office—

(a) if he become insolvent or assign his estate for the benefit of or make any arrangement with his creditors ;

(b) if he become of unsound mind or be convicted of any offence and sentenced to imprisonment therefor without the option of a fine ;

(c) if he be absent from such number of consecutive meetings of the Council without the leave of the Council as may be provided for in the by-laws of the Council ;

(d) if he resign his membership or when he retires in accordance with section *four*.

Vacation of office by members of governing body.

6. Any vacancy among the members of the Council caused by death or any of the circumstances described in the last preceding section shall be filled in the manner provided in section *three* and a member so appointed to fill the vacancy shall hold office for the remainder of the period for which the member so vacating office but for such vacation of office would have held the same.

Filling of vacancies in governing body.

7. The Council shall appoint from among its members a chairman and vice-chairman who shall hold office for such period as the Council may determine.

Appointment of chairman and vice-chairman of the Council.

8. The powers and functions of the Council shall be :—

(a) (1) To establish and carry on courses of instruction and training, to conduct examinations and grant certificates in agricultural and veterinary sciences and allied subjects, and also in such other subjects as the Governor may from time to time approve.

(2) To carry on extension work in connection with such subjects at such place or places as the Council may from time to time think fit.

(b) To make all rules of order and by-laws which may be deemed necessary for the proper conduct of business by the Council or any committee thereof and to delegate such powers to such committees as the Council may think fit.

(c) To engage teaching and administrative staffs and such other servants as may be required, and to prescribe the conditions of service of and to terminate such engagements.

Powers, etc., of the Council.



(d) To establish a committee of the teaching staff to be called the Senate, to determine the conditions of membership and the duties and functions thereof; and to make such arrangements as will secure that the advice of the Senate is available for the members of the Council when necessary.

(e) In its discretion to admit, suspend, and expel students and to prescribe such regulations as may be necessary for the maintenance of order and discipline.

(f) To fix, levy, and collect the tuition fees of the students and the boarding fees of the resident students and staff.

(g) To acquire, hold, administer, and from time to time to sell, lease, or otherwise dispose of movable and immovable property; provided that no immovable property shall be sold or otherwise disposed of without the approval of the Governor.

(h) To borrow money upon security of mortgage bonds, debentures, or otherwise, subject to the approval of the Governor.

(i) To hold and administer any trust which may be committed to it for bursaries, scholarships, or otherwise.

(j) To hold, invest, and disburse moneys which may be subscribed or donated for the purposes of the institution.

(k) To recover all moneys which may at any time be due to the Council, and to frame and enforce rules for the signature of contracts, powers of attorney and other documents and for the conduct of any legal proceedings for or against the Council.

(l) To establish and maintain one or more hostels for the use of the students.

(m) To do all such other acts as may be necessary to promote the interests and carry out the objects of the institution.

9. The portion of the Pretoria Town Lands donated by the Council of the Municipality of Pretoria to the Governor in trust for agricultural education shall be vested in the College by this Act established subject to the conditions attached thereto.

10. The Governor may from time to time make, alter, and rescind regulations not inconsistent with the provisions of this Act for the better carrying out of the objects and purposes of this Act.

11. This Act may be cited for all purposes as the Transvaal College of Agriculture Incorporation Act, 1910, and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Vesting of  
certain lands  
in Pretoria in  
the College.

Regulations

Title and date  
of operation  
of Act.

Act No. 3 of 1910.]

[Promulgated 17th May, 1910.

AN ACT

TO APPLY A FURTHER SUM NOT EXCEEDING FOUR HUNDRED AND FIFTY-FIVE THOUSAND THREE HUNDRED AND FIFTY-THREE POUNDS STERLING FOR THE SERVICE OF THE PERIOD FROM THE 1ST JULY 1909 TO THE 30TH MAY 1910.

Assented to 27th April, 1910.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. The public revenue of this Colony is hereby charged towards the service of the period from the 1st July 1909 to the 30th May 1910 with a sum of Four Hundred and Fifty-five Thousand Three Hundred and Fifty-three pounds Sterling in addition to the sum provided for by the Appropriation (1909-1910) Act 1909.

Public revenue charged with £455,353 for the period from the 1st July 1909 to the 30th May 1910.

2. The money granted by this Act shall not be applied to any use, intent, or purpose, other than the particular services specified in the Schedule thereto.

Not to be applied otherwise than as granted.

3. The issue and payment from time to time by the Colonial Treasurer by warrant under the hand of the Governor of such sums of money as were or may be required for the purposes hereinbefore mentioned (not exceeding in the whole the sums respectively in that behalf specified) shall be deemed to have been or to be proper issues, and the Colonial Treasurer shall in his accounts be allowed credit for all sums paid by him in pursuance of any such warrant; and the receipts of the persons, to whom such sums shall have been so paid, shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

The Treasurer to make payments under warrant of the Governor.

4. This Act may be cited for all purposes as the Additional Appropriation (1909-1910) Act 1910 and shall come into operation on the date of its first publication as an Act in the *Gazette*.

Title and date of operation of Act.

*SCHEDULE.*  
ORDINARY EXPENDITURE.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
3	Legislative Assembly ...	Clerk of the Legislative Assembly	£1,793
4	Joint Parliamentary Expenses	" " "	833
7	Colonial Secretary ...	Assistant Colonial Secretary	5,395
16	Foreign Labour ...	Superintendent of Foreign Labour	1,452
25	Pensions, Allowances and Gratuities	Secretary to the Treasury	903
27	Miscellaneous ...	" " "	45,000
28	Lands and Irrigation ...	Secretary for Lands ...	62,000
Total Ordinary Expenditure...			£117,376

EXTRAORDINARY EXPENDITURE.

Letter of Vote.	Title of Vote.	Accounting Officer.	Amount.
B.	General Telephone Extension	Postmaster-General ...	£20,000
C.	Works and Bridges ...	Secretary for Public Works	—
E.	Purchase of hypothecated properties bought in by the Investment Board and on account of the Resettlement Loan Fund	Secretary for Lands ...	20,000
F.	Contribution to the Transvaal Guaranteed Loan 1903	Secretary to the Treasury...	297,977
Total Extraordinary Expenditure ...			£337,977

SUMMARY.

Ordinary Expenditure ...	...	...	...	£117,376
Extraordinary Expenditure	...	...	...	337,977
				£455,353

Act No. 4 of 1910.]

[Promulgated 17th May, 1910.]

AN ACT

TO MAKE PROVISION FOR MINING AND TECHNICAL EDUCATION IN THE TRANSVAAL AND FOR OTHER PURPOSES.

Assented to 27th April, 1910.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. In this Act, unless inconsistent with the context—  
"Governor" shall mean the officer for the time being administering the Government of this Colony, acting by and with the advice of the Executive Council thereof;  
"Minister" shall mean the Colonial Secretary or any other Minister to whom the Governor may from time to time assign the administration of this Act;  
"Council" shall mean the body constituted in accordance with the provisions of section *three* of this Act;  
"donor" shall mean any person or corporation contributing to the funds of the institution established by this Act, a capital sum of not less than two thousand five hundred pounds or an annual sum of not less than one hundred and fifty pounds.

Interpretation of terms.

2. (1) From the date of coming into operation of this Act there shall be established at Johannesburg, an institution entitled "The South African School of Mines and Technology", the objects of which shall be to provide courses of instruction and training, to conduct examinations and to grant certificates in mining and engineering as well as other branches of applied science and in such other subjects as the Governor may from time to time approve.

Establishment and incorporation of the South African School of Mines and Technology.

- (2) The said school shall be a body corporate with perpetual succession and shall, under the name of the South African School of Mines and Technology, be capable of suing and being sued and of purchasing or otherwise acquiring, holding, and alienating property movable and immovable and of doing and performing such acts and things as bodies corporate may by law do and perform subject to the provisions of this Act.

3. (1) The governing body of the said institution shall be a Council consisting of not less than ten members who shall be appointed by the Governor and shall hold office for a period of five years subject to the provisions hereinafter contained. For such period as the Council of Education, Witwatersrand, shall remain in existence three members of the Council shall, subject

Constitution of governing body of the school.

to the approval of the Governor, be such persons as shall have been nominated for that purpose to the Governor by the said Council of Education, Witwatersrand. If and whenever the said Council of Education, Witwatersrand, shall cease to exist three members of the Council shall be such persons as the Governor shall approve as representative of any donors.

(2) The Governor may add to the said number of members of the Council a representative or representatives of not less than fifty students of the said institution or of the South African School of Mines established in 1896, the Transvaal Technical Institute, or the Transvaal University College, Johannesburg, who have graduated therein, or in either of the said other institutions or have passed a qualifying examination recognized by the Council as equivalent to such graduation.

Retirement of members of the governing body.

4. On the thirtieth day of June, 1911, and on the thirtieth day of June in every year thereafter two members of the Council shall retire and their places shall be filled by other persons appointed in like manner. The order of retirement shall, unless such members otherwise agree amongst themselves, be determined by ballot immediately after the first appointment. A retiring member shall be eligible for re-election.

Vacation of office by members of the governing body.

5. A member of the Council shall vacate his office—

(a) if he become insolvent or assign his estate for the benefit of or make any arrangement with his creditors ;

(b) if he become of unsound mind or be convicted of an offence and sentenced to imprisonment therefor without the option of a fine ;

(c) if he be absent from such number of consecutive meetings of the Council without the leave of the Council as may be provided for in the by-laws of the Council ;

(d) if he resign his membership or when he retires in accordance with section *four*.

Filling of vacancies.

6. Any vacancy among the members of the Council caused by death or by any of the circumstances described in the last preceding section shall be filled in the manner provided by section *three*, and a member so appointed to fill the vacancy shall hold office for the remainder of the period for which the member so vacating office but for such vacation of office would have held the same.

Appointment of chairman and vice-chairman of Council.

7. The Council shall appoint from among its members a chairman and vice-chairman who shall hold office for such period as the Council may determine.

Powers, etc., of the Council.

8. The powers and functions of the Council shall be—

(a) to establish and carry on courses of instruction and training in mining and engineering and allied subjects and also in such other subjects as may from time to time be approved by the Governor and to hold examinations and grant certificates in all such subjects and to carry on extension work in connection with such subjects at such place or places as the Council may from time to time think fit ;

- (b) to pass all rules of order and by-laws which may be deemed necessary for the proper conduct of business by the Council or any committee thereof, and to delegate such powers to such committees as the Council may think fit ;
- (c) to confirm existing engagements of members of the staff, to engage a teaching and administrative staff and such other officers as may be required, and to prescribe the conditions of service of and to terminate such engagements ;
- (d) to establish a committee of the teaching staff to be called the Senate, to determine the conditions of membership and the duties and functions thereof, and to make such arrangements as will secure that the advice of the Senate is available for the members of the Council when necessary ;
- (e) in its discretion to admit, suspend, and expel students, and to prescribe such regulations as may be necessary for the maintenance of order and discipline ;
- (f) to fix, levy, and collect the tuition fees of students and the boarding fees of the resident students and staff ;
- (g) to acquire, hold, administer, and from time to time sell, lease, or otherwise dispose of movable and immovable property, provided that no immovable property shall be sold or otherwise disposed of without the approval of the Governor ;
- (h) to borrow money upon security of mortgage bonds, debentures, or otherwise, subject to the approval of the Governor ;
- (i) to hold and administer any trust which may be committed to it for bursaries and scholarships or otherwise ;
- (j) to hold, invest, and disburse moneys which may be subscribed or donated for the purposes of the institution ;
- (k) to recover all moneys which may at any time be due to the Council, and to frame and enforce rules for the signature of contracts, powers of attorney, and other documents and for the conduct of any legal proceedings for or against the Council ;
- (l) to establish and maintain one or more hostels for the use of students ;
- (m) to do all such other acts as may be necessary to promote the interests and carry out the objects of the institution.

9. The piece of land known as Plein Square, Johannesburg, which was granted to the Transvaal University College by Deed of Grant dated the twenty-third day of November 1906, together with all buildings and erections thereon which are at the date of the coming into operation of this Act the property of the Transvaal University College is hereby transferred to and vested in the Council to hold the same subject to all the conditions in the said Deed of Grant contained and the Registrar of Deeds shall make all necessary entries for recording the said transfer without the payment of any transfer duty, stamp duty, or registration charges.

10. All movable property and other assets belonging at the time of the taking effect of this Act to the Transvaal University College in connection with the Johannesburg branch thereof are hereby transferred to and vested in the school by this Act

Vesting of certain property in Johannesburg in the Council.

Property belonging to Johannesburg branch of former University College vested in the school.

established and the Council shall take over all obligations and administer all trusts which at the date of the coming into operation of this Act are binding upon or administered by the Transvaal University College in connection with its Johannesburg branch and all bursaries or scholarships held or granted at that date in connection with the Johannesburg branch of the Transvaal University College shall be deemed to be so held in connection with the said school.

Regulations.

11. (1) The Governor may from time to time make, alter, and rescind regulations not inconsistent with the provisions of this Act for the better carrying out of the objects and purposes of this Act.

(2) All such regulations and any alterations or rescission thereof shall within seven days after the same take effect be laid on the tables of Parliament if Parliament be then in session, or if it be not then in session within seven days after the commencement of its next ensuing session.

Title and date  
of operation  
of Act.

12. This Act may be cited for all purposes as the South African School of Mines and Technology Incorporation Act 1910, and shall take effect from the date of its first publication as an Act in the *Gazette*.\*

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\* Published in *Gazette* of 17th May, 1910.

Act No. 5 of 1910.] [Promulgated 17th May, 1910.]

AN ACT

TO APPLY A SUM OF MONEY NOT EXCEEDING FORTY-NINE THOUSAND EIGHT HUNDRED AND FORTY POUNDS SEVENTEEN SHILLINGS AND THREE PENCE STERLING FOR THE PURPOSE OF MEETING AND COVERING CERTAIN UNAUTHORIZED EXPENDITURE DURING THE FINANCIAL YEARS 1907-08 AND 1908-09.

Assented to 27th April, 1910.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The public revenue of this Colony is hereby charged with a sum not exceeding forty-nine thousand eight hundred and forty pounds seventeen shillings and three pence sterling to meet certain expenditure during the financial years 1907-08 and 1908-09, over and above the amounts voted or issued from the Exchequer for the relative services. Such expenditure is described on page xxv of the report of the Auditor-General on the accounts of the Colony for the financial year 1908-09, and is further specified in the Schedule to this Act.

2. This Act may be cited as the Unauthorized Expenditure (1907-08 and 1908-09) Act 1910, and shall come into operation on the date of its first publication as an Act in the *Gazette*.

Revenue charged with £49,840 17s. 3d. unauthorized expenditure.

Title and date of operation of Act.

*SCHEDULE.*

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
	(ORDINARY EXPENDITURE.)		
(1907-08) 26	Agent-General in London	Secretary to the Treasury	£ s. d. 175 17 0
(1908-09) 20	Treasury	Secretary to the Treasury	60 0 6
22	Auditor-General	Auditor-General	19 7 11
25	Printing and Stationery	Government Printer	119 10 5
29	Miscellaneous	Secretary to the Treasury	2,559 17 4
33	Public Works	Secretary for Public Works	36,201 12 8
34	Works and Bridges	Secretary for Public Works	8,678 8 10
	(EXTRAORDINARY EXPENDITURE.)		
B.	General Telephone Extension	Postmaster-General	2,026 2 7
			£49,840 17 3



Act No. 6 of 1910.]

[Promulgated 17th May, 1910.]

A PRIVATE ACT

TO CONFER FURTHER POWERS ON THE COUNCIL OF THE  
MUNICIPALITY OF JOHANNESBURG.

Assented to 27th April, 1910.

WHEREAS it is expedient to amend the Johannesburg Municipal Ordinance 1906 and to confer further powers on the Council for the Municipality of Johannesburg.

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal, as follows:—

Amendment  
of section  
*forty-one* of  
Johannesburg  
Municipal  
Ordinance  
1906.

1. Section *forty-one* of the Johannesburg Municipal Ordinance 1906 shall be and is hereby amended by the addition thereto after sub-section (79) of the said section of the following new sub-section:—

(79) (a) *For text see Ordinance II (Private), 1906, section forty-one (79) (a).*

(79) (b) *For text see Ordinance II (Private), 1906, section forty-one (79) (b).*

Power to  
make  
connections  
with and  
utilize private  
drains on  
private  
ground to  
connect any  
premises with  
public sewers.

2. In any case where owing to the contour of the ground or for other reasons it is difficult to connect for sewerage purposes any premises within the municipality direct with a public sewer maintained by the Council the Council may make connections with and utilize any private drain on private ground so as to connect such premises with any public sewer and any such work carried out or authorized by the Council shall be deemed to be work done under the provisions of Part II of the Municipalities Powers of Expropriation Ordinance 1903 or any amendment thereof; provided that upon such connection being made the said drain with which connection is so made shall from the point of such connection to the point of junction with the public sewer be considered and used as a combined or joint drain and the cost of construction, repair and maintenance of such combined or joint drain shall so far as the same shall not fall to be borne by the Council be paid and borne by the owners of premises respectively served thereby in such proportions as the Council shall from time to time adjust and settle.

Power to  
make  
by-laws or  
regulations  
for carrying  
out powers  
conferred  
under section  
*two* of this  
Act.

3. The Council may from time to time make, alter and revoke by-laws or regulations for the purpose of carrying out the powers and authorities conferred upon it under section *two* of this Act provided that any such by-laws or regulations shall be subject to the provisions of sections *forty-two* to *fifty-five* (both inclusive) of the Johannesburg Municipal Ordinance 1906.

Short title.

4. This Act may be cited for all purposes as the Johannesburg Municipal Private Act, 1910, and shall be read as one with the Johannesburg Municipal Ordinance 1906.

Act No. 7 of 1910.]

[Promulgated 17th May, 1910.]

## AN ACT

## TO MAKE FURTHER PROVISION RELATIVE TO GOVERNMENT INDUSTRIAL SCHOOLS.

Assented to 24th April, 1910.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The provisions of the law or regulations for the time being in force relative to the apprenticeship of, and the punishments which may be inflicted on, the inmates of reformatories may be applied *mutatis mutandis* to persons ordered to be sent to a Government industrial school under section *sixteen* of Act No. 38 of 1909.

Application of reformatory law and regulations to Government industrial schools.

2. The regulations mentioned in the said section may prescribe a list of offences committed by such persons at a Government industrial school which shall be tried by the nearest resident or assistant resident magistrate holding his court at that school.

Jurisdiction of magistrate in respect of offences in Government industrial schools.

3. If, upon such inquiry as may be prescribed by the regulations aforesaid, a resident or assistant resident magistrate finds that a male person detained in a Government industrial school is unsuited for detention thereat, he may order such person to be removed to a reformatory to be therein detained till he has attained an age mentioned in the order, but not exceeding the age of twenty.

Transfer of persons from industrial schools to reformatories.

4. Any person who directly or indirectly counsels, incites, or induces, whether by written communication or otherwise, any person detained in a Government industrial school to desert therefrom, or shall harbour, conceal, or assist any such person who has so deserted or prevent him from returning to such school, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months, or to both such fine and such imprisonment.

Penalties for inciting to desertion from industrial school.

5. This Act may be cited for all purposes as the Industrial Schools Act 1910, and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Title and date of operation of Act.

\* Published in *Gazette* of 17th May, 1910.

Act No. 8 of 1910.]

[Promulgated 17th May, 1910.

\*AN ACT

TO AMEND THE MINES, WORKS, MACHINERY, AND CERTIFICATES  
ACT, 1909 (ACT NO. 32 OF 1909).

Assented to 27th April, 1910.

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BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Duty of inspectors of mines, etc., and inspectors of machinery to inquire into accidents and power to hold inquiries into other matters.

1. (1) Whenever any accident shall occur at a mine or upon any works, an inspector of mines, an inspector of machinery, or an inspector of explosives shall hold an inquiry into the cause of such accident and may summon witnesses to give evidence thereat and examine them or cause them to be examined on oath.

(2) An inspector of mines, inspector of machinery or an inspector of explosives may hold an inquiry whenever he shall have reason to believe that any regulations or special rules made under the Mines, Works, Machinery and Certificates Act 1909 have been contravened or whenever in the opinion of the Government Mining Engineer it is for any other reason expedient that an inquiry be held as to occurrences at any mine or works. An inspector holding an inquiry under this sub-section shall have the same powers of summoning witnesses and examining or causing them to be examined on oath as in the case of an inquiry under sub-section (1).

Amendment of section four of Act No. 32 of 1909.

2. Paragraph (g) of section four of the Mines, Works, Machinery and Certificates Act 1909 shall be and is hereby repealed and the following new paragraph substituted therefor:—

“(g) the manner of holding enquiries at any mines or works, the procedure to be followed at any such enquiry and the mode of securing the attendance of witnesses thereat”.

General powers of inspectors of mines, machinery and explosives.

3. (1) Any inspector of mines, inspector of machinery or inspector of explosives may enter upon any mine or works and inspect or examine the same or any part thereof at any hour of the day or night provided he does not impede or obstruct the working of the mine or the carrying on of the works.

(2) Whenever any such inspector finds at any mine or works that any thing or practice in any way connected therewith is dangerous or defective or that the absence of any thing or practice is calculated to cause bodily injury to any person and no provision exists in any law, regulation, or special rule requiring such thing to be done or not to be done or requiring such practice to be observed or forbidding such practice, he shall give notice in writing to the manager of the mine or works stating the particular

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\* This Act as well as Act 32 of 1909 have not yet been put in force.

thing, matter, or practice which he requires to be done or not to be done or observed or discontinued and give such instructions relative thereto as he may deem expedient; provided that an appeal shall lie to the Government Mining Engineer in manner prescribed by regulation against any decision or instruction given under this section by any such inspector.

4. Section *twelve* of the Mines, Works, Machinery and Certificates Act, 1909, shall be and is hereby amended by the insertion immediately after the words "of any regulation" in the second line thereof, of the words "or failing to comply with the terms of any notice or instruction given under this Act or any regulation by an officer of the Mines Department"; and further by the insertion in the fourth line of the said section, immediately after the word "contravention" of the words "or non-compliance".

Amendment  
of section  
*twelve* of Act  
No. 32 of 1909.

\*5. This Act may be cited for all purposes as the Mines, Works, Machinery and Certificates Amendment Act, 1910, and shall be read as one with the Mines, Works, Machinery and Certificates Act, 1909, and shall come into operation on the date fixed by section *fourteen* of the last-mentioned Act as the date for the coming into operation of that Act.

Title and date  
of operation  
of Act.

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\* This Act has not yet been put in force.

Act No. 9 of 1910.]

[Promulgated 17th May, 1910.

AN ACT

TO FURTHER AMEND THE PUBLIC SERVICE AND PENSIONS ACT  
1908 (ACT NO. 19 OF 1908), AND THE RAILWAY SERVICE AND  
PENSIONS ACT 1908 (ACT NO. 20 OF 1908).

Assented to 27th April, 1910.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. If within five years after the coming into operation of this Act the services of any officer to whom Chapter III of Act No. 19 of 1908 applies or any officer in the Railway Service to whom Chapter III of Act No. 20 of 1908 applies be terminated by reason of the abolition of his own or another office or by reason of a reduction of, or a reorganization in, his department, there shall be added to his actual period of employment in the Public Service—

(a) in the case of an officer whose actual period of employment is at the date of his retirement less than ten years, a period equal to one-third of that actual period of employment ;

(b) in the case of an officer whose actual period of employment is at the date of his retirement ten years or more, a period of five years ;

and the period of employment for purposes of such an officer's pension shall, in the event aforesaid, be ascertained by making such an addition to his actual period of employment.

No contribution shall be payable by the officer in respect of any period so added.

2. This Act may be cited for all purposes as the Public and Railway Service and Pensions Amendment Act 1910 and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

Addition of period to officer's period of employment for pension purposes in certain events.

Title and date of operation of Act.

\* Published in *Gazette* of 17th May, 1910.

Act No. 10 of 1910.]

[Promulgated 17th May, 1910.]

## AN ACT

TO PROVIDE FOR THE CONSTRUCTION BY THE RAILWAY BOARD OF CERTAIN LINES OF RAILWAY IN THIS COLONY AND TO RATIFY AND APPROVE AN AGREEMENT BETWEEN THE GOVERNMENT, THE RAILWAY BOARD, AND A CERTAIN COMPANY FOR THE CONSTRUCTION OF A CERTAIN OTHER LINE OF RAILWAY IN THIS COLONY.

Assented to 27th April, 1910.

WHEREAS by article *ten* (*b*) of a Convention entered into between the Governments of the Transvaal and of the Orange River Colony dated the First day of June, 1908, the terms of which are set forth in the First Schedule to the Inter-Colonial Conventions Ratification Act, 1908, it was agreed that the Railway Board by such Convention constituted (and hereinafter referred to as the Board) should have power to construct lines of railway and to complete arrangements concerning the same subject to the approval of the Parliaments of the Colonies in which any such line is to be situated ;

And whereas the Board purposes to construct the lines of railway mentioned and described in the First Schedule to this Act ;

And whereas it is proposed in the case of the line of railway first mentioned in the said Schedule that part of the cost of construction thereof—to wit, one hundred and fifty thousand pounds sterling—shall be advanced on loan to the Board by the Government of this Colony (hereinafter referred to as the Government) out of the guaranteed loan raised under Ordinance No. 31 of 1903, and upon like terms to those upon which the Government raised that loan ;

And whereas it is necessary, as hereinbefore recited, that the construction by the Board of each of the said lines of railway be approved by the Parliament of the Transvaal, so far as the line lies within the boundaries of this Colony ;

And whereas by article *twenty-one* (*b*) of the said Convention the Government is empowered to arrange for the construction upon terms approved by the Board of any line of railway which, in the opinion of the Board, is not likely to compete with any line of the Railway Administration, but which the Board does not wish to construct upon joint account ;

And whereas an agreement has been entered into between the Government, the Board, and the Messina (Transvaal) Development Company, Limited, for the construction of such a line of railway upon terms set forth in that agreement ;

And whereas that agreement is subject to the ratification and approval of the Parliament of the Transvaal;

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. The construction by the Board of each of the two lines of railway (together with all sidings, stations, buildings, and other appurtenances necessary or incidental to the proper working of each railway when constructed) along routes more particularly described in the First Schedule to this Act, is hereby approved.

2. (1) To defray part of the cost of construction of the line first described in the said Schedule, and to defray the whole cost of construction of the other line therein described, the Board may employ, in each case, any surplus which, under article *eighteen* (b) of the said Convention, may be devoted to the purposes of the Railway Administration.

(2) Towards payment of portion of the cost of construction of the line first described in the said Schedule the Government is hereby authorized to advance to the Board out of the guaranteed loan raised under Ordinance No. 31 of 1903 a sum not exceeding one hundred and fifty thousand pounds sterling. Those moneys shall be advanced upon the terms and conditions following, that is to say:—

(i) the moneys advanced shall be applied by the Board toward such railway construction as is first described in the First Schedule to this Act;

(ii) interest shall be paid half-yearly by the Board to the Colonial Treasurer upon any moneys so advanced at the same rate at which the said guaranteed loan is raised by the Government. Such interest shall be payable on such dates as the Colonial Treasurer may determine;

(iii) the Board shall pay to the Colonial Treasurer upon the same dates, a sum equal to ten shillings per cent. on the amount advanced as aforesaid to enable the Government to meet sinking fund payments due or to become due by it under Ordinance No. 31 of 1903 in respect of that proportion of the said guaranteed loan which represents the amounts so advanced, or if His Majesty's Imperial Treasury shall certify that a greater sum is necessary for the purposes described in sub-section (2) of section *six* of the said Ordinance, then such greater sum;

(iv) the Board shall further pay to the Colonial Treasurer on the same dates a sum covering the expenses incidental to the issue, and the management charges, of the said proportion;

(v) so long as the administration and control of the Central South African Railways are vested in the Board, the line of railway mentioned in this section shall be worked by the Board and incorporated in and form part of its system of railways; and whenever the lines of the Central South African Railways which are in this Colony cease to form part of that system all the liabilities of the Board in respect of the said advance shall cease and determine.

3. (1) The agreement entered into between the Government, the Board, and the Messina (Transvaal) Development Company, Limited, dated the Second day of April, 1910, and set forth in the Second Schedule to this Act, is hereby ratified and approved.

Ratification of agreement set forth in Second Schedule to this Act.

(2) The line of railway the construction and working whereof is provided for in the said agreement shall be a line of railway to be constructed for the use of the public within the meaning of Ordinance No. 20 of 1903 and the provisions of that Ordinance shall apply for the purposes of the construction, maintenance, and equipment of that line.

4. This Act may be cited for all purposes as the Railways Construction Act, 1910, and shall come into operation on the date of its publication as an Act in the *Gazette*.\*

Title and date of operation of Act.

### FIRST SCHEDULE.

#### PARTICULARS OF LINES OF RAILWAY.

(1) A line of railway from either Nelspruit or Alkmaar on the Pretoria-Delagoa Bay line to a point on the farm Graskop No. 27 in the District of Lydenburg and near to the town of Pilgrims Rest.

(2) From a point at or near the town of Standerton on the Germiston-Volksrust line, to a point on the Klip River, the line being portion of a line to be continued from the said point on the Klip River to a point at or near Vrede in the Orange River Colony.

### SECOND SCHEDULE.

AGREEMENT BETWEEN THE GOVERNMENT OF THE TRANSVAAL, THE RAILWAY BOARD, AND THE MESSINA (TRANSVAAL) DEVELOPMENT COMPANY, LIMITED.

#### AGREEMENT

Made and entered into by and between General the Right Honourable Louis Botha, Prime Minister of the Transvaal, and as such acting for and on behalf of the Government of the Transvaal (hereinafter referred to as the Government), of the first part,

The Honourable Henry Charles Hull, Chairman of the Railway Board of the Central South African Railways (hereinafter referred to as the Board) and as such acting for and on behalf of the Board, of the second part, and

The Messina (Transvaal) Development Company, Limited, a company incorporated and registered in the United Kingdom under the laws thereof with limited liability, and represented herein by John Pascoe Grenfell, duly authorized in this behalf by that Company (hereinafter referred to as the Messina Company), of the third part.

Whereas the Messina Company is desirous of having a railway line constructed, maintained, and worked in the Transvaal for the use of the public, commencing at the railhead of the line described in item No. 5 of the Schedule to Act No. 10 of 1909 of the Transvaal (hereinafter referred to as the Selati Extension line) or at such other point of junction with that line as may be mutually agreed between the Government and the Messina Company, and finishing at a point in the Zoutpansberg District of the Transvaal or near the Messina Copper Mine, the property of the Messina Company;

And whereas by article *twenty-one (b)* of the Convention set forth in the First Schedule to Act No. 8 of 1908 of the Transvaal the Government is empowered to arrange for the construction by private enterprise of such a line upon terms approved by the Board:

And whereas the Government has arranged for the construction of such a line upon terms set forth in this Agreement and the Board has signified, as it doth hereby signify, its approval of those terms:

Now therefore these presents witnesseth that the parties hereto do hereby covenant and agree with each other in manner following, that is to say:—

\* Published in *Gazette* of 17th May, 1910.



## PRELIMINARY.

## 1. In this Agreement—

“the line” shall mean the line of railway to be constructed under this Agreement commencing at the railhead of the line described in item No. 5 of the Schedule to Act No. 10 of 1909 of the Transvaal or at such other point of junction with that line as may be mutually agreed between the Government and the Messina Company, and finishing at or near the Messina Copper Mine in the Zoutpansberg District, and shall include all lands used for the same and all works and buildings of every description on or about or in connection therewith, together with all fixtures, fittings, instruments and accessories, stations, crossing places, sidings, signals and telegraphic and telephonic communications, and all other equipment necessary for working the railway, excepting engines and rolling stock;

“cost of the line” shall mean—

- (a) the cost of the labour employed and the material used in constructing the line; and
- (b) the cost of expropriating land or rights in or over land; and
- (c) the cost of the survey of the route and of the preparation of the plans, specifications and estimates for the construction of the line; and
- (d) the cost of raising on loan the moneys hereinafter mentioned and any interest payable thereon prior to the opening of the line for traffic, less interest earned by the placing out at interest of those moneys as hereinafter provided.

In the cost of so raising moneys shall be included any discount on the issue of debentures (as hereinafter provided), any underwriting commissions, bankers' charges, stamp duties, expenses of advertising and registration, and all other expenses incidental to the raising of the said moneys.

## PART I.

## FINANCIAL PROVISIONS.

2. The Messina Company undertakes within three months after the ratification of this Agreement by Parliament to form a company (hereinafter referred to as the Railway Company) for the express purpose of constructing the line and carrying out the provisions of this Agreement, and to procure the registration of the Railway Company as a company with limited liability with a memorandum and articles of association (to be approved by the Government) enabling it to carry out this Agreement and to assume all the rights, powers, obligations, and liabilities conferred and imposed by this Agreement upon the Railway Company. That company shall be provided with a reasonable share capital, and shall have a place of business in the Transvaal.

3. The Railway Company shall from time to time provide moneys sufficient to defray the cost of the line, which it is estimated will not exceed seven hundred and fifty thousand pounds sterling (£750,000).

4. The moneys for defraying the cost of the line shall be raised by the issue by the Railway Company of debentures constituting according to the laws of the Transvaal a first charge upon the property and assets of the Railway Company. The Government guarantees that it will pay to the Railway Company in each year such a sum of money as will, when added to the profits of the line (if any) for that year be sufficient to pay interest at the rate of two pounds per cent. for that year on those debentures. If in any year the profits of the line are sufficient to pay interest at the rate of two pounds per cent. on those debentures the Government shall be discharged in respect of that year from any liability under its guarantee. The Messina Company guarantees that it will pay to the Railway Company in each year such sum of money as will, when added to the profits of the line (if any) for that year and to the sum (if any) paid by the Government to the Railway Company in accordance with this article, enable the Railway Company to pay the balance of the interest, over and above two per cent., on those debentures. If in any year the profits of the line are sufficient to pay interest on the debentures the Messina Company shall be discharged in respect of that year from any liability under this guarantee. The Messina Company further guarantees that if default be made by the Railway Company in paying any part of the capital sums owing on the debentures as and when the same becomes due, it will

pay such amount owing on the said debentures as cannot be satisfied out of the assets of the Railway Company. "Profits of the line" shall, for the purposes of this article, mean the revenue derived from the working of the line after deducting working expenses as in article sixteen is defined. The revenue derived from any traffic over the line during the period of its construction shall be devoted to the payment of interest on the said debentures, but the Government and the Board may agree with the Railway Company that any part of such revenue be paid to the contractor.

5. The date or dates of the issue of the said debentures, the rate of interest payable by the Railway Company thereon, the date of redemption, and all the conditions of issue and the payment of underwriting commissions shall be arranged in consultation with a competent financial authority nominated by the Government, but shall be subject in every such case to the approval of the Government.

6. The guarantees aforesaid of the Government and the Messina Company shall be stated on the face of the debentures aforesaid, and shall operate from the dates on which those debentures are issued. Any moneys raised by the Railway Company by the issue of those debentures and not immediately required for the cost of the line shall be placed at interest with such person, bank, or corporation and in such manner and upon such terms as to interest or otherwise as the Government shall approve, and any interest so earned shall be devoted by the Railway Company towards the payment, during the construction of the line, of interest on the debentures.

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## PART II.

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### CONSTRUCTION OF LINE.

7. The line shall be constructed along a route to be agreed between the Government and the Messina Company, and the Government shall, at the cost of the Railway Company, cause a detailed survey of that route to be made. The Messina Company shall, within fourteen days after the ratification of this Agreement by the Parliament of the Transvaal, place sufficient funds at the disposal of the Government to carry out the survey and to prepare plans, specifications, and estimates for the construction of the line. The survey shall thereupon be commenced, and as soon as it is complete, the plans, specifications, and estimates aforesaid shall be prepared and submitted for the approval of the Board and of the Railway Company, and when so approved, shall be deemed to be incorporated in this Agreement.

8. As soon as such approval shall have been received, the Government shall, on behalf of the Railway Company, call for public tenders for the construction of the line. The conditions of such tenders shall, as far as practicable, be in accordance with the conditions of tenders called for in the construction of the Selati Extension line. The Board shall have the right to tender upon those conditions of tender.

9. The Government undertakes to submit each tender to the Railway Company for its consideration, and the tender mutually agreed upon between the Government and the Railway Company shall be accepted; provided that, if the Government and the Railway Company are unable to agree as to the tender to be accepted, or in the event of their agreeing not to accept any tender received from persons other than the Board, the Board shall construct the line, and, if in that event the cost of construction exceed the amount of the lowest tender, the Board shall state to the Government and the Railway Company the cause why that amount has been exceeded.

10. The Railway Company shall enter into a written contract for the construction of the line with the person whose tender is accepted. That contract shall be executed within one month after the date of the acceptance of the tender or (as the case may be) of the determination not to accept any tender as in the last preceding article is provided. The said contract shall be in the form used by the Board for railway construction contracts, so far as such form is applicable.

11. It shall be a condition of the contract that work be commenced upon the line within two months after the date of the execution of the contract. The line shall be completed and ready for traffic within such period as shall be mutually determined by the Government and the Railway Company.

12. If the Board do not construct the line, it shall be constructed under the direction and supervision of engineers appointed by the Board, and the expenses incidental thereto shall, for the purpose of this Agreement, be deemed to be part of the cost of the line.

13. The Government undertakes to grant to the Railway Company for the construction of the line the use of any unoccupied Crown land free of charge and the use of any occupied Crown land on the same terms and conditions as such land may be used when a railway is being constructed by the Government. The Government further undertakes to apply the provisions of the law relating to expropriation of land for railway purposes, in order that such land or rights as are necessary for the construction and equipment of the line may be acquired for those purposes. In the construction and working of the line the Railway Company and the contractors shall be subject to any laws or statutory regulations in force relating to railways for the use of the public.

14. All materials for or incidental to the construction of the line shall be conveyed at railway construction rates over those lines open for traffic which are under the control of the Board.

15. The line shall be of a gauge of three feet six inches, and shall be constructed so as to conform, as regards rails, sleepers, and other materials, and as regards gradients and curves, with the standard prescribed in the agreement for the construction of the Selati Extension line. The Board, in consultation with the Railway Company, shall determine the sites for stations, crossing places, halts, water stations, and other requirements, as well as from time to time any alterations thereof or additions thereto. The Board shall, subject to the approval of the Railway Company, determine any improvements, additions, or alterations to the line, which shall be made at the cost of the Railway Company.

### PART III.

#### WORKING OF THE LINE.

16. The line shall be worked on behalf of the Company by the Board as part of the railway system of the Central South African Railways. The Board shall, for the purpose of working the line, employ such staff and provide such engines, rolling stock, equipment, and other things as are necessary for dealing properly with traffic thereon. The working expenses of the line shall include—

- (a) a charge for the hire of engines from the Board at the rate of 10 per cent. per annum on their value;
- (b) a charge for the hire of rolling stock, tarpaulins, ropes, and chains, at the same rates as are at the date of this Agreement charged between the various South African Railway Administrations;
- (c) the actual cost of transport, station services, maintenance, and supervision of the line and of the engines and rolling stock provided for the working of the traffic thereon, and the actual cost of the general administration of the line, in so far as the same is ascertainable, including contribution to superannuation, sick, and other staff funds; and
- (d) where the charges for the services referred to in the last preceding sub-section are not exactly ascertainable, an allowance in respect thereof, calculated on the same basis as the expenses of the railway branch lines of the Central South African Railways system.

“Working expenses” shall not include interest on the debentures referred to in Part I of this Agreement.

17. The fares to be charged for the conveyance of passengers and the freight to be charged for the transport of goods over the line shall, from time to time, be fixed by the Board after consultation with the Railway Company, and shall, as nearly as possible, be in accordance with the fares and freight which are for the time being chargeable on the Central South African Railways system, but so that, if possible, the line shall, after payment of working expenses, earn sufficient to pay interest at the rate of not less than 6 per cent. per annum on the moneys expended in accordance with this Agreement for the cost of the line; provided that no such charges shall be fixed as would discourage traffic over the line or the development of the district served thereby.

18. The Board shall transmit to the Railway Company within six weeks after the thirtieth day of June and the thirty-first day of December in every year, after the opening of the line, or at such other periods as may from time to time be agreed between the Board and the Railway Company, a provisional statement showing the moneys received in respect of the working of the line by the Board and the working expenses thereof during the half-year ending on those dates or (as the case may be) during any other periods so agreed upon. Within three

months after the transmission to the Railway Company of the provisional statement the auditor of the Board's accounts shall transmit to the Railway Company a final statement certified by him to be correct. Such final statement shall, for the purpose of the next succeeding article, be accepted by the Railway Company as correct. If the final statement transmitted disclose the necessity for an adjustment of accounts, the adjustment shall be made forthwith. If the Railway Company desires to inspect the records setting out the receipts and working expenses of the line for any such half-year or period, as recorded in the offices of the Board, those records shall, at all reasonable times, be open for inspection by such officer of the Railway Company as it may in writing appoint.

19. If the moneys received in respect of the working of the line by the Board during any such half-year or other period agreed as aforesaid exceed the working expenses for that half-year or other period, the excess shall be paid by the Board to the Railway Company. If the working expenses during any such half-year or other period agreed as aforesaid exceed the moneys received in respect of the working of the line by the Board for that half-year or other period, the deficit shall be paid to the Board by the Railway Company, or, failing such payment by the Railway Company within six weeks after the same is due, by the Messina Company. If the Messina Company also fails to pay such deficit within a period of four weeks after payment is due from it, the Board may discontinue the working of the line.

20. The Railway Company may, before any notice of intention is given by the Board to expropriate the line under Part IV. of this Agreement, give to the Board not less than one year's notice of its intention to terminate those provisions of this Agreement which relate to the working of the line by the Board, and, at the expiry of such notice, the Railway Company may itself work the line. If thereafter the Railway Company discontinue the working of the line, the Board may enter upon and take possession of the line and the buildings, and any engines, rolling stock, and railway equipment found thereon, and work the line at its own cost and for its own benefit, subject to its maintaining the line, buildings, engines, rolling stock, and equipment in proper repair; provided that the Railway Company may, at the expiry of six months' notice of such its intention, resume the working of the line.

21. During any such time as the Railway Company is working the line under the last preceding article, it shall have the use free of charge of any passenger or goods station at which the line joins any other line under the control of the Board. In all other respects the right to use during that time any other property of the Board shall be upon terms agreed upon between the Board and the Railway Company.

22. "Working of the line" shall, when used in relation to its working by the Railway Company, mean, unless the Board otherwise agrees, the running of not less than three trains per week for the conveyance of traffic in each direction for the throughout distance of the route and at such scheduled times as the Board may approve.

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#### PART IV.

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#### EXPROPRIATION.

23. The Board may expropriate the line at the expiry of ten years from the date of the completion of the line on payment of—

(a) the cost of the line and of any improvements thereon which have been made by the Railway Company and previously approved by the Board, less depreciation calculated on the following annual percentages:—

- (1) in respect of rails, £4 per cent.;
- (2) in respect of sleepers, £7 per cent.;
- (3) in respect of railway fencing, £4 per cent.;
- (4) in respect of bridge superstructure, £2 per cent.;
- (5) in respect of brick buildings, £2 per cent.;
- (6) in respect of wood and iron buildings, £7½ per cent.;
- (7) in respect of weighing machines, £10 per cent.;
- (8) in respect of water tanks, columns, and piping, £7½ per cent.;
- (9) in respect of telegraphs and telephones, £4 per cent.

(b) a bonus of five pounds per cent. on the net amount ascertained in accordance with paragraph (a).

24. The Board may also expropriate the line at any period before the expiry of ten years from its completion on payment of the amounts ascertained in accordance with the last preceding article, together with any loss on the working of the line and any shortfall of interest on the debentures referred to in Part I which has been paid by the Messina Company or the Railway Company.

## PART V.

## MISCELLANEOUS.

25. The Government undertakes not to construct within a period of ten years from the date of this Agreement any railway north of the Zoutpansberg range within a distance of fifty miles of the line, but nothing in this article contained shall prevent either the Government or the Board from constructing any railway line connecting with the line at any point.

26. This Agreement shall be subject to ratification by the Parliament of the Transvaal, and the Government undertakes to introduce in that Parliament at its next session a Bill—

- (a) ratifying and approving this Agreement; and
- (b) enabling the Railway Expropriation Laws of the Transvaal to be applied for purposes incidental to the construction, maintenance, and equipment of the line.

27. Neither the Messina Company nor the Railway Company shall have the right to sell, lease, or otherwise dispose of the line or of their respective interests therein or of any of the rights conferred upon them or either of them under this Agreement.

28. Nothing in this Agreement contained which imposes an obligation upon the Railway Company shall be deemed to relieve the Messina Company of any obligation which in the interpretation of this Agreement has to be fulfilled by the Messina Company.

IN WITNESS WHEREOF this Agreement has been signed on behalf of the parties hereto this Second day of April, 1910.

Witnesses :

- (1) W. E. BOK.
- (2) A. E. BASDEN.

Witnesses :

- (1) C. P. ISAAC.
- (2) WALTER WEBBER.

Witnesses :

- (1) C. P. ISAAC.
- (2) WALTER WEBBER.

LOUIS BOTHA,  
*For the Transvaal Government.*

H. C. HULL,  
*For the Railway Board.*

JOHN P. GRENFELL,  
*For the Messina (Transvaal) Development Co., Ltd.*

Act No. 11 of 1910.]

[Promulgated 17th May, 1910.]

AN ACT

TO AMEND THE WORKMEN'S COMPENSATION ACT 1907 BY PROVIDING FOR THE APPOINTMENT AND USE OF MEDICAL AND OTHER ASSESSORS IN INQUIRIES AND LEGAL PROCEEDINGS UNDER THE SAID ACT, AND IN OTHER RESPECTS.

Assented to 28th April, 1910.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. (1) The Attorney-General may from time to time appoint persons, duly registered as medical practitioners under the law regulating the registration of medical practitioners, to act as medical assessors when summoned under this Act.

Appointment of persons to act as medical and other assessors in Workmen's Compensation Act cases.

(2) The Attorney-General may further from time to time appoint persons to act as assessors in technical questions, other than medical questions, when summoned to act as such under this Act.

2. A magistrate holding an inquiry, or the court of resident magistrate trying an action, under the Workmen's Compensation Act, 1907, may summon to his or its assistance one such medical assessor and, if expedient, one such other assessor to sit and act in an advisory capacity at that inquiry or trial; provided that no person shall be summoned as an assessor at any such inquiry or trial who has, in connection with the accident out of which that inquiry or trial arises, given professional assistance or advice to the workman or to the employer or principal or to any person under contract of accident insurance or life insurance with the workman, employer, or principal.

Summoning of assessors by magistrate or court of resident magistrate.

3. (1) The Attorney-General may, in consultation with the Colonial Treasurer, fix a scale of fees to be paid to assessors for sitting and acting as aforesaid under this Act or for any other assistance and advice given in respect of the accident or inquiry or action arising thereout.

Remuneration of assessors.

(2) All such fees shall be paid out of the public revenue of the Colony.

4. During the course of any proceedings under the Workmen's Compensation Act 1907 the magistrate or court of resident magistrate (as the case may be) may, if he or it thinks fit at the request of any party to the proceedings, reserve any question of law arising therein for the decision of the Supreme Court, and such question shall be stated in the form of a special case and

Submission of questions of law arising out of Act No. 36 of 1907 for the decision of the Supreme Court.

may be argued before and shall be determined by that Court, which may give such directions in the matter, and may make such order as to costs, as to it may seem fit.

Amendment  
of section  
*twenty-one* of  
Act No. 36 of  
1907.

5. Section *twenty-one* of the Workmen's Compensation Act 1907 shall be and is hereby amended by the addition to the end thereof of the following proviso :

“provided further that if one of such dependants is a minor the said court shall determine the amount payable to the minor, and the resident magistrate shall pay such amount into the hands of the Master of the Supreme Court.”

Amendment  
of section  
*twenty-two* of  
Act No. 36 of  
1907.

6. Section *twenty-two* of the Workmen's Compensation Act 1907 shall be and is hereby amended by the addition to the end thereof of the following proviso :

“provided that the representative of the deceased workman shall transmit to the Master of the Supreme Court within a reasonable time a statement supported by vouchers and acquittances showing

(a) the amount recovered under this Act from the employer or principal ;

(b) the amount deducted and paid for medical attendance and the expenses of the burial ;

(c) the amount awarded to any dependant.”

Title and date  
of operation  
of Act.

7. This Act may be cited for all purposes as the Workmen's Compensation Amendment Act 1910, and shall come into operation on the date of its first publication as an Act in the *Gazette*.\*

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\* Published in *Gazette* of 17th May, 1910.

Act No. 12 of 1910.]

[Promulgated 17th May, 1910.]

## A PRIVATE ACT

TO AMEND CERTAIN LAWS RELATING TO THE MUNICIPALITY OF  
 PRETORIA AND TO CONFER FURTHER POWERS ON THE COUNCIL  
 THEREOF.

Assented to 28th April, 1910.

WHEREAS it is desirable to authorize the Council of the Municipality of Pretoria to raise by the issue of stock and otherwise a further sum of one million pounds (£1,000,000) sterling, for the purposes of the said municipality as hereinafter set forth :

And whereas it is desirable to confer further powers upon the Council of the said municipality :

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. In this Act, unless the context requires otherwise ;

Definitions.

“municipality” means the municipality of Pretoria, as constituted for the time being ;

“Council” means the Council of the Municipality of Pretoria as by law established ;

“Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council thereof.

2. The Council is hereby authorized to raise by the issue of stock and otherwise subject to the provisions of section *four* of the Pretoria Municipal Ordinance 1906, as amended by the Pretoria Municipal Act 1907, a further amount of one million pounds (£1,000,000) sterling for the purposes set forth in the schedule to this Act. The authority hereby conferred shall be deemed to be an authority conferred in accordance with the provisions of section *three* of Ordinance No. 3 of 1903, and no further authority for the raising of the said amount shall be required under the said section.

Authority to raise one million pounds for purposes specified in schedule.

3. The Council shall apply the amount raised in pursuance of the authority conferred by section *two* of this Act in accordance with the said schedule for the purposes therein described in such order and at such times as the Council may determine ; provided that the Council may subject to the approval of the Governor vary the distribution of the amounts specified in the schedule between the different purposes therein described, and may further subject to the like approval apply any portion of the amounts specified in the said schedule for purposes other than the purposes therein described.

Application of amount raised in pursuance of preceding section.



Additional  
powers of  
Council.

4. The Council is hereby empowered to do any of the following things :—

(a) To divert, straighten, define, and canalize the course of any stream spruit or water-course within the municipality after giving notice and making compensation to any owner or occupier of land or any rights or servitudes attaching to land abutting on such course as existing and as proposed in manner provided by Part II of the Municipalities Powers of Expropriation Ordinance 1903 ; provided that in settling any compensation payable by the Council hereunder, the enhanced or improved value immediate or prospective which shall accrue to any such land by reason of the carrying out of the said purposes or any of them shall be taken into account.

(b) To acquire either by purchase or agreement on such terms as may be mutually agreed upon or otherwise by compulsory purchase, all or any of the property, rights, powers, benefits and privileges held by the Pretoria Estate and Market Company, Limited, or any other person or persons under certain deed of agreement or market concession entered into between the Government of the late South African Republic and one Jacob Daniel Celliers on the 29th day of March 1890, with all and every the powers for the purpose of such compulsory purchase which are conferred upon the Council by Part I of the Municipalities Powers of Expropriation Ordinance 1903.

(c) To take over, control and maintain any existing cemetery or burial ground and to close for burial purposes any church, municipal, private, or other cemetery or burial ground or any portion thereof within the municipality, provided that no such closing shall take place until a resolution stating the Council's intention to effect such closing has been passed by a majority of two-thirds of the Councillors at the time in office and published in the *Gazette* and in one or more newspapers circulating in the municipality.

(d) To grant any gratuity to the wife and family, or any of them, of any deceased official or servant of the Council.

(e) To establish maintain and carry on any of the following things :

(i) Within the municipality a service of motor omnibuses or other vehicles drawn or propelled by animal, mechanical or electrical power for the carriage of passengers and parcels, provided that this sub-section shall not apply to tramways ;

(ii) infectious diseases hospitals ;

(iii) steam disinfecting stations.

5. (1) After acquisition by the Council of the market concession mentioned in sub-section (b) of section four hereof, it shall be lawful for the Governor upon the application of the Council to cancel, subject to such conditions as may be agreed upon with the Council, the said market concession.

(2) Law No. 8 of 1888 (the Market Law) shall not apply to the municipality or to any municipal market therein as soon as

Pretoria  
Market.

by-laws or regulations shall have been made by the Council relating to markets, and it shall be lawful for the Council, upon establishing a new market on such site as the Governor may approve, to close the existing market on the square in Pretoria known as "Market Square".

(3) The Council may with the consent of the Governor erect and maintain on such square, buildings for public purposes or set apart the whole or any portion of the said square for any public purpose; provided that prior to such acquisition as aforesaid nothing in this section contained shall in any way affect any existing rights of the present or future holders of the said market concession.

6. No person shall inter or cause the interment of any dead body in any cemetery or burial ground which shall have been closed by the Council under the powers conferred by this Act, and any person contravening this section shall be liable on conviction to a penalty not exceeding fifty pounds (£50).

Offence created and penalty imposed for interment of dead body in cemetery closed by Council.

7. (1) The Council may in its discretion at the request of the owner of any land or premises situated within the limits of the municipality;

Powers to execute drainage works on private premises or make footways or to make advances therefor.

(a) carry out either by its own servants or through contractors any work in connection with the installation or improvement of any drainage or sewerage system on such land or premises and the connection of such land or premises with the Council's drains, sewers or pipes and recover from the owner of such land or premises the expenses incurred in such work including a reasonable charge for supervision, and if the work is undertaken by the Council without the interposition of a contractor may recover charges for the use of tools and plant;

(b) construct and pave with concrete blocks or flat hewn or other stones or in such other manner as the Council may think fit, and of such breadth as the Council may think fit, a footway along the side of any street abutting upon the land or premises of any such owner and recover from such owner the expenses incurred in such work including a reasonable charge for supervision and if the work is undertaken by the Council without the interposition of a contractor recover charges for the use of tools and plant;

(c) advance to the owner of any land or premises the amount of any expenses incurred or to be incurred by him in the execution of any such drainage or sewerage work or the construction or paving of any such footway on or in respect of such land or premises.

(2) The Council may agree to accept payment of such expenses and repayment of such advances in such instalments at such times and on such conditions as may to the Council appear reasonable, together with interest thereon at the rate of six per

centum per annum (which shall be charged from the date when the works are completed or the advances made) on such amount as remains for the time being outstanding.

(3) Such expenses and advances shall be a charge upon the land or premises in respect of which the same shall be incurred or made, and shall be paid to the Council by the owner, and the same or the instalments thereof as they fall due respectively, shall be recoverable from the owner for the time being, or any future owner, of the said land or premises in any competent court.

(4) The Council shall keep at the municipal offices a register of all expenses incurred and advances made under this section and shall show in such register the total amounts thereof, the instalments (if any) in which the same are payable, the premises in respect of which the same shall have been incurred or made and the balances for the time being outstanding and shall keep such register open at all reasonable times for the inspection of any person free of charge, such register and any extract therefrom certified by the town clerk or other person authorized by the Council shall in any proceedings for the recovery of such expenses or advances or any interest due thereon or any instalments thereof be *prima facie* evidence of the matters therein contained.

(5) No transfer or cession of any land or premises situate within the municipality shall be passed before any registration officer until there shall have been produced to him a receipt or certificate signed by the town clerk, or other person authorized by the Council, showing that all or any sums due on account of any expenses incurred and advances made by the Council under this section in respect of such land or premises together with interest thereon have been paid.

(6) Nothing in this section shall limit or affect the power of the Council to execute any work which the Council is by law, or under any by-law in force in the municipality, empowered to execute or to recover the costs of executing such work from any person who is liable therefor.

By-laws for  
sewerage and  
drainage and  
footways.

8. The Council shall have power from time to time to make alter and revoke laws or regulations for all or any of the following purposes, namely ;

(a) for regulating any of the things which it is empowered to do under section four of this Act and the charges to be made in respect thereof ;

(b) for regulating sewerage or drainage and for compelling the connection at the owner's expense of his land or premises with the Council's drains, sewers and pipes at the boundary of his land or premises ;

(c) for fixing the charges which may be made for the use of the Council's drains, sewers, or pipes in respect of any land or premises which shall be connected therewith ;

(d) for regulating the construction by any owner of land at his expense of a footway along the side of any street, abutting on his land and the paving of such footway with concrete blocks or flat hewn or other stones or in any other way and for regulating the construction and paving by the Council at such owner's expense of such footways ;

(e) for fixing the charges which may be made for the construction and paving by the Council of any such footways.

No such by-laws shall be inconsistent with, contrary or repugnant to, the provisions of this Act, or of any other law in force within the municipality.

9. Any charges which the Council may fix by regulation or by-law for the use of the Council's drains, sewers or pipes in respect of any land or premises which shall be connected therewith shall for all purposes be deemed to be charges for sanitary services and recoverable as such accordingly. Charges for use of sewers.

10. Any charges which the Council may fix by regulation or by-law for the construction of any footways shall for all purposes be deemed to be charges for services by the Council and shall be recoverable as such accordingly. Charges for construction of footways.

11. Any contributions or donations of a public, charitable, or benevolent character, made by the Council prior to the date of this Act taking effect, shall be deemed to have been legally made. Donations.

12. It shall be lawful for the Council to defray out of their revenues any costs incurred in the promotion and passing of this Act. Costs of Act.

13. Nothing in this Act contained shall in any way affect the rights of His Majesty the King, His Heirs and Successors, or of any person except such as are mentioned in this Act and those claiming by from and under them. Rights of the Crown.

14. This Act may be cited as the Pretoria Municipal Private Act 1910, and shall come into operation on the date of its publication in the *Gazette*.\* Title and date of operation of Act.

#### SCHEDULE.

Expenses of flotation of previous loan	...	...	...	...	£60,000
Extension of water supply	...	...	...	...	100,000
Road and street making	...	...	...	...	200,000
Canalization of Walker Spruit to Bond Street	...	...	...	...	85,000
Sewerage, Arcadia	...	...	...	...	45,000
Sewerage, Sunnyside	...	...	...	...	41,000
Disposal Works for sewerage, Arcadia and Sunnyside	...	...	...	...	23,000
Completion of sewerage scheme, Pretoria proper	...	...	...	...	20,000
Removal of locations	...	...	...	...	25,000
Tramway and electric supply extensions and additions	...	...	...	...	150,000
Extension of and alterations to Municipal Hall and Buildings	...	...	...	...	25,000
Public baths	...	...	...	...	20,000
Abattoirs, infectious diseases hospital, and steam disinfecting station	...	...	...	...	25,000
Development of Fountains Valley Park	...	...	...	...	10,000
Laying out of Church Square	...	...	...	...	5,000
Establishments of markets, recreation and athletic grounds, improvement of parks, erection of public washhouses and other public conveniences, construction of bridges and other public works, fire station, sewerage of Pretoria West, and expenses of flotation of loan	...	...	...	...	166,000
					<u>£1,000,000</u>

\* Published in *Gazette* of 17th May, 1910.

Act No. 13 of 1910.]

[Promulgated 17th May, 1910.]

AN ACT

TO MAKE FURTHER PROVISION REGULATING TRADING ON GROUND  
HELD UNDER MINING TITLE.

Assented to 28th April, 1910.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

Interpreta-  
tion of terms.

1. In this Act the expressions "Mining Commissioner", "mining district", "mining title" and "Minister" shall have respectively the same meanings as are assigned to them in and for the purposes of Act No. 35 of 1908, or any amendment thereof;

"certificate for a trading stand" shall mean any such certificate as is mentioned in section *eighty-eight* of Act No. 35 of 1908;

"trading site" shall mean a site finally set apart under section *five* of this Act;

"trading stand" shall mean ground which, immediately prior to the coming into operation of this Act, was registered as a trading stand under the provisions of Act No. 35 of 1908.

Trading upon  
ground held  
under mining  
title  
forbidden  
with certain  
exceptions.

2. (1) No person shall, upon ~~ground held under mining title,~~ carry on any trade or business except—

(a) upon a stand mentioned in section *seventy-seven* or *seventy-nine* of Act No. 35 of 1908; or

(b) upon a trading stand; or

(c) upon a trading site,

and no person shall, upon a trading stand or trading site, carry on any business except that of a general dealer or keeper of a Kaffir eating-house

Any person contravening the provisions of this section shall be deemed to be guilty of the offence mentioned in section *ninety-six* of Act No. 35 of 1908.

(2) Every receiver of revenue and every municipal council shall have regard to the provisions of this section in granting, renewing, or transferring any licence to carry on the business of a general dealer or keeper of a Kaffir eating-house upon ground held under mining title, and no such licence granted, renewed, or transferred in contravention of this section shall be valid.

Abolition of  
board  
constituted  
under section  
*eighty-three*  
of Act No. 35  
of 1908.

3. (1) On the date of the coming into operation of this Act, the board appointed under section *eighty-three* of Act No. 35 of 1908 shall cease to exist, and every trading stand registered at that date in the name of that board shall be registered in the name

of the Mining Commissioner of the mining district in which the stand is situate and shall for the purposes of the Local Authorities Rating Ordinance 1903, or any amendment thereof, be deemed to be an interest in land held by the Crown.

(2) From and after that date the Mining Commissioner shall, in the mining districts of Johannesburg, Boksburg, and Krugersdorp, exercise, in relation to any application for the renewal or transfer of a certificate for a trading stand or in relation to the cancellation or suspension of any such certificate, the jurisdiction which by any unrepealed provision of the said Act is conferred upon the said board, and wherever in any such unrepealed provision the expression "the board" or "chairman of the board" is used, there shall be substituted for that expression "the Mining Commissioner".

(3) From and after the said date the Mining Commissioner shall in every other mining district continue to exercise in relation to any application for the renewal or transfer of a certificate for a trading stand or in relation to the cancellation of any such certificate, the jurisdiction which, immediately prior to the coming into operation of this Act, was exercisable by the Mining Commissioner.

(4) The Mining Commissioner may, after the coming into operation of this Act, grant any application for the renewal or transfer of a certificate for a trading stand. The Mining Commissioner shall publish in the *Gazette* and in a newspaper circulating in the mining district, a notice setting forth the names and addresses of the applicants and the registered numbers and situations of the stands in respect of which they have respectively made application. Such notice shall specify the place fixed for hearing the applications and the date and hour so fixed (not being less than fourteen days after the date of the notice), and shall call upon persons desiring to object to the renewal or transfer of a certificate to lodge with the Mining Commissioner, and to serve on any applicant, in respect of whose application objection is made, written notice of such objection not less than seven days before the date fixed by the Mining Commissioner.

The Mining Commissioner shall on the date fixed or on any later date hear such applicant and such objectors, and may take notice of any matter or thing which, in his opinion, constitutes an objection to the renewal or transfer of a certificate; provided that in such case, the Mining Commissioner shall adjourn the consideration of the application for not less than four days, to enable the applicant to meet his objection.

(5) In exercising his jurisdiction under this section the Mining Commissioner may refuse, without giving reasons, the renewal or transfer of a certificate for a trading stand, and, unless the holder of the certificate obtained, before the coming into operation of this Act, the sanction of the said board to his being interested in the right to trade on more than one trading stand the Mining Commissioner shall refuse a transfer if the effect would be that the holder of the certificate would by the transfer obtain the right to trade, or to become interested in the right to trade, on more than one trading stand or on a trading stand and a trading site.

(6) Whenever the Mining Commissioner is satisfied that the circumstances described in sub-section (1) (a) of section *eighty-four* of Act No. 35 of 1908 have ceased to exist the Mining Commissioner shall, at the expiry of six months' notice in writing given by him to the holder of any certificate for a trading stand, cancel that certificate and the licence for the stand.

(7) A certificate for a trading stand shall, whenever renewed, expire on the thirty-first day of December following the date of the renewal.

(8) Sections *eighty-two* to *eighty-seven*, inclusive, of Act No. 35 of 1908 shall be and are hereby repealed.

Circumstances under which trading stands may become trading sites.

4. (1) Whenever for any reason the renewal of a certificate for a trading stand is refused or any such certificate is cancelled, the stand licence for that stand shall be cancelled.

(2) Whenever such a stand licence is cancelled because the site of the trading stand is required for mining purposes or purposes incidental to mining, the Mining Commissioner may set apart as a trading site other ground held under mining title not so required, but as near as possible to the ground so required. The Mining Commissioner may thereupon grant to the person dispossessed of his occupation of the trading stand, permission to carry on for such limited period and on such conditions as the Minister may prescribe any such business as aforesaid on the trading site so set apart on the terms that he pay periodically to the Mining Commissioner for the right to carry on any such business upon that site the same sum as he would have paid by way of rent if he had continued to occupy a trading stand. Save as aforesaid the provisions of sub-sections (2), (3), (4), (6), (7) and (8) of the next succeeding section shall so far as applicable apply in the circumstances mentioned in this sub-section.

Selection of sites for trading on mining ground and disposal of right to try thereon.

5. (1) Whenever the Minister is of opinion that additional facilities should be given in any mining district for carrying on the business of a general dealer or keeper of a Kaffir eating-house upon ground held under mining title and that circumstances rendering it expedient to establish a township on or in the neighbourhood of such ground do not exist, he may instruct the Mining Commissioner to select provisionally so many sites on such ground as he may consider necessary. *not less than 10,000 sq. ft.*

(2) Each site selected shall be ~~one hundred foot square~~ and shall be not less than six hundred feet from the entrance to any mining compound.

(3) The Mining Commissioner shall send to the holder of the mining title by prepaid registered post, notice of his intention to select provisionally any such site, specifying in the notice the situation of the proposed site and the date, hour, and place at and on which he will sit to hear objections to the final setting apart of the site. The Mining Commissioner shall further publish that notice in the *Gazette* and in a newspaper circulating in the mining district once during four consecutive weeks. After sitting to hear the objections (if any) raised by the holder of the mining title or by other persons to the selection of the site, the Mining Commissioner may finally set the same apart as a trading site.

(4) No ground shall be finally set apart as a trading site if the Mining Commissioner is satisfied that the surface thereof is required by the holder of the mining title for mining purposes or purposes incidental to mining or if the Mining Commissioner is satisfied, having regard to the number of persons residing or employed in the neighbourhood of the proposed site, to the number of existing traders supplying the needs of such persons and to the distance of the proposed site from the nearest township, that there is no public necessity for the additional trading facilities aforesaid.

(5) The right to carry on upon a site finally set apart the business of a general dealer or keeper of a Kaffir eating-house for such limited period and on such conditions as the Minister may prescribe and as shall be stated in the conditions of sale shall be sold by the Mining Commissioner by public auction; notice of intention to sell any such right shall be given by the Mining Commissioner once in each of four consecutive weeks in the *Gazette* and in a newspaper circulating in the mining district; but no such right may be acquired except by a white person of full age nor by any person unless he is approved by the Minister as being of good character. The purchase price shall be an annual sum payable by him or his legal representatives or his assigns during the period so prescribed. After deduction of the costs of the sale from the first annual sum paid the balance shall be paid to the Colonial Treasurer, who, if the site be private land, shall, so long as the ground is used as a trading site, pay to the registered owner thereof out of the annual sum so paid such sum as would be payable to that owner if the site had been registered as a trading stand under the provisions of Act No. 35 of 1908 repealed by this Act.

(6) Whenever the Mining Commissioner is satisfied upon the representation of the holder of the mining title that the surface of the ground comprising a trading site is required for mining purposes or purposes incidental to mining, he shall, in accordance with the provisions of this section, set apart as a trading site other ground not so required. Whenever such other site has been so set apart, the ground so required shall cease to be a trading site, and any right then held by any person to trade thereon shall cease, but the Mining Commissioner shall grant to that person on the same conditions as those upon which he held the right to trade on the site required as aforesaid permission to carry on any such business as is mentioned in sub-section (5) upon the other site set apart under this sub-section for so long as it may not be required for mining purposes or purposes incidental to mining. If that other site be private land, there shall be paid to the registered owner thereof, by the Colonial Treasurer such sum as would be payable to that owner if the site were a trading stand.

(7) A right acquired under this section to carry on the business of a general dealer or keeper of a Kaffir eating-house upon a trading site may subject to the conditions aforesaid be transferred to any white person of full age, approved by the Minister as being of good character provided that written notice of the intention to transfer, specifying the name and address of the person to



whom the transfer is to be made, be given to the Mining Commissioner not less than one month before the transfer is to take effect. *For additional words, vide Sec. 6 Act 20/41 as for slip 1 att*

(8) Whenever any person has become entitled under this section to carry on any such business as aforesaid upon a trading site, the Mining Commissioner shall transmit to him a document in the form prescribed by regulation which shall be the authority to the receiver of revenue or municipal council (as the case may be) to issue, renew, or transfer (as the case may be) a licence to carry on the business aforesaid upon that trading site.

Beaconing of trading sites.

6. Whenever any ground is set apart as a trading site under this Act, the Mining Commissioner shall cause beacons to be erected thereon and a diagram thereof to be prepared and filed in his office. The cost of erecting the beacons and the preparation of the diagram shall be deemed to be part of the costs of the sale for the purposes of sub-section (5) of section five, but ~~in the circumstances set forth in sub-section (2) of section four and in sub-section (6) of section five the costs of so erecting beacons and preparing diagrams shall be paid out of the public revenue.~~ *For additional words vide Sec. 7 Act 20/41 as for slip 2 att*

Mining Commissioner to act in accordance with instructions of the Minister.

7. In carrying out any powers or duties or in exercising any jurisdiction conferred or imposed upon him by this Act, the Mining Commissioner shall act in accordance with such instructions as may from time to time be given to him by the Minister, who may, within the time in each case prescribed by regulation, confirm, set aside, or vary any act done or decision given by the Mining Commissioner under this Act.

Rating of trading stands and trading sites.

8. Any lease of a trading stand or any right acquired under this Act to carry on business upon a trading site shall be deemed to be an interest in land for the purposes of the definition of "rateable property" in the Local Authorities Rating Ordinance 1903 or any amendment thereof, and the holder of such lease or of such right shall be deemed to be the "owner" for the purposes of the said Ordinance or any amendment thereof.

Regulations.

9. (1) The Governor-in-Council may, from time to time, make, alter, or rescind regulations not inconsistent with the provisions of this Act, for the better carrying out of the objects and purposes thereof, including (*inter alia*) the prevention of monopolies of trade in the neighbourhood of mines.

(2) All such regulations and every alteration or rescission thereof shall, within seven days after publication, be laid on the tables of Parliament if Parliament be then in session, or if it be not then in session, within seven days after the commencement of its next ensuing session.

Title and date of operation Act.

\*10. This Act may be cited for all purposes as the Trading on Mining Ground Regulation Act, 1910, and shall not come into operation unless and until the Governor shall have declared by proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the Act, and thereafter it shall come into operation on such date as the Governor shall by like proclamation declare.

\* For Royal Assent and date of operation (18th June, 1910), see Proc. No. 8 of 1910 (*Union Gazette*, 17th June, 1910).

Act No. 14 of 1910.]

[Promulgated 17th May, 1910.]

AN ACT

TO AMEND THE SHOP HOURS ACT, 1908 (ACT NO. 32 OF 1908),  
AND THE SHOP HOURS AMENDMENT ACT, 1909 (ACT NO. 29  
OF 1909).

Assented to 28th April, 1910.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows:—

1. Sections *six* and *eleven* of the Shop Hours Act 1908 together with so much of the Schedule to that Act as refers to Asiatic tearooms or Asiatic eating-houses, section *two*, sub-section (1) of section *three*, and section *four* of the Shop Hours Amendment Act 1909 shall be and are hereby repealed. Repeal of laws.

2. Section *four* of the Shop Hours Act 1908 shall apply within the municipality of Witbank and within a distance of five miles from the nearest boundary thereof. Section *four* of Act No. 32 of 1908 to apply to Witbank Municipality.

3. The hours after which it is by the Shop Hours Act 1908 provided that a shop shall not be permitted to be or to remain open, and the days on which it is by the said Acts provided that a shop shall not be permitted to be open, shall not apply to Exemption of certain premises from closing hours prescribed in Act No. 32 of 1908.

- (a) railway bookstalls ;
- (b) restaurants, tearooms, eating-houses (which are not Kaffir eating-houses), bakers' shops and confectioners' shops ;
- (c) shops where the sale of fresh milk or fruit or vegetables or flowers is the main business carried on therein ;

provided that it shall not be lawful to keep any such place open between the hours of twelve o'clock midnight and six o'clock in the morning.

4. On a public holiday, or on a Sunday, or after the closing hours of the shops prescribed by section *four* or section *five* of the Shop Hours Act 1908, no person shall, in any shop mentioned in paragraphs (b) or (c) of the last preceding section, sell, for consumption or use off the premises of that shop, any article other than fresh milk, fresh flowers or perishable foodstuffs. Prohibition of sales in restaurants, tearooms, etc., on Sundays or public holidays after closing hours, except for consumption on the premises.

Attendance register to be kept.

5. (1) Every shopkeeper carrying on any business mentioned in paragraphs (b) and (c) of section *three* of this Act who employs one or more shop assistants, shall keep in his shop an attendance register or book. Every shop assistant employed in that shop shall, on every day during which he is so employed and immediately upon commencing work, enter in that attendance register or book a true record of the hour and minute at which he commences work and, upon ceasing work, a true record of the hour and minute at which he ceases work.

(2) Every attendance register or book shall, at all times during business hours, be open to inspection by any magistrate, police officer or other person duly authorized to inspect the same.

\*(3) The Colonial Secretary may from time to time by notice in the *Gazette* make, alter or rescind rules prescribing the form and manner in which attendance registers or books are to be kept in the shops to which the provisions of this section are applicable.

(4) Any shopkeeper who neglects or fails to observe and carry out the provisions of this section or of any rules made thereunder and any person who wilfully neglects to make any of the record entries prescribed in sub-section (1) or prevents the making of such entries or wilfully makes a false entry or orders or permits or connives at any false entry being made, shall be deemed to have contravened the provisions of this Act.

Penalties.

6. Any penalties provided for a contravention of the Shop Hours Act 1908 may be imposed for a contravention of any provision of this Act.

Title and date of operation of Act.

7. This Act may be cited for all purposes as the Shop Hours Further Amendment Act 1910, shall be read as one with the Shop Hours Act 1908 and the Shop Hours Amendment Act 1909, and shall come into operation on the date of its first publication as an Act in the *Gazette*.†

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\* For regulations, see Govt. Notice No. 575 of 1910 (*Gazette*, 30/5/10).

† Published in *Gazette* of 17th May, 1910.

Act No. 15 of 1910.]

[Promulgated 17th May, 1910.]

## AN ACT

TO PROVIDE FOR THE LICENSING OF PERSONS CARRYING ON UNDERTAKINGS FOR THE SUPPLY OF POWER AND FOR OTHER PURPOSES.

Assented to 28th April, 1910.

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of the Transvaal as follows :—

1. In this Act, unless inconsistent with the context— Interpreta  
tion of terms
- “board” shall mean the advisory board constituted under this Act ;
- “commencement of this Act” shall mean the date on which this Act came into operation ;
- “consumer” shall mean a person supplied or entitled to be supplied with power by a licensee ;
- “distribution line” shall mean a licensee's overhead or underground conductor or other means for transmitting power to and entering a transformer station or other point on a consumer's property and in the case of overhead conductors shall include a line or lines of poles with any conductors carried thereby ;
- “distribution station” shall mean a station in which power is taken from a licensee's transmission line and is transformed in pressure or converted in form and thereafter transmitted to transformer stations or through a distribution line ;
- “generating station” shall mean a station in which power is directly generated by coal or other fuel or by water or by any other means, and shall include all works, railway sidings, coal or ash dumps, workshops, stores, dwelling and boarding houses, recreation rooms, and other land, buildings, and works necessary or incidental to such a station ;
- “Governor” shall mean the officer for the time being administering the government of this Colony acting by and with the advice of the Executive Council thereof ;
- “licence” shall mean a licence granted under this Act to generate and transmit, distribute, or in any manner supply power exceeding twenty million units during any one year ;
- “licensee” shall mean the holder of a licence ;

- “Minister” shall mean the Minister of Mines or any other Minister to whom the Governor may, from time to time, assign the administration of this Act ;
- “power” shall mean power, for the purpose of disposal, derived from electricity or compressed air or derived from any other source which may by proclamation of the Governor in the *Gazette* be declared to be a source for the derivation of power ;
- “regulation” shall mean a regulation made under this Act ;
- “transmission line” shall mean a licensee’s overhead or underground conductor or other means of transmitting power from and between the licensee’s generating station and distribution stations and in the case of overhead conductors shall include a line or lines of poles with any conductors carried thereby ;
- “transformer station” shall mean a station which is either on or in the neighbourhood of a consumer’s property and in which power is transformed in pressure or converted in form for supplying power to a consumer ;
- “undertaking” shall mean the business with all the assets and liabilities in the Colony appertaining thereto which under this Act shall only be carried on under the authority of the licence.

Constitution  
of advisory  
board.

2. (1) At the commencement of this Act there shall be constituted an advisory board consisting of not more than five persons and styled the Power Undertakings Board. The Government Mining Engineer shall be one of such persons and shall be chairman of the board and the other members shall be appointed from time to time by the Governor : all the members shall be officers in the public or railway service.

(2) The board shall, in addition to any other duties imposed upon it under this Act, advise the Minister upon any matter connected with the administration of this Act, which he may refer to it.

(3) The board shall have all the powers, jurisdiction, and privileges described in the Commissions Powers Ordinance, 1902.

#### LICENSING OF POWER UNDERTAKINGS.

Prohibition of  
unlicensed  
power under-  
takings.

3. (1) From and after the commencement of this Act no person except the council of a municipality shall, save as is provided in sub-section (2) of this section, erect or instal any machinery or plant, or carry on or engage in any manner in any undertaking, for the supply to any other persons of power exceeding twenty million units in any one year unless that undertaking be licensed under this Act.

(2) In the case of such an undertaking which was being carried on at the commencement of this Act it shall be lawful to continue that undertaking for one year after such commencement, but, unless the same be licensed under this Act, for no longer, provided that the provisions contained in section *five* relating to the supply of power by a licensee within a municipality shall apply to any such undertaking as if it were licensed under this Act.

(3) Notwithstanding anything to the contrary in this section contained, the Minister may exempt from the duty of obtaining a licence an association of persons or companies operating any such plant or machinery for their own exclusive use and supplying power therefrom to themselves only and the exemption shall be in force for so long only as, in the opinion of the Minister, the circumstances herein described exist.

4. (1) Any person desiring to obtain a licence shall make application in writing to the Minister in the form prescribed by regulation and shall transmit with the application plans drawn to a scale prescribed by regulation and showing where necessary by means of books of reference the particulars mentioned in paragraphs (a), (c), (d), and (e) of sub-section (2).

Applications  
for licences.

(2) Every such application for a licence shall, if the applicant be a company, be accompanied by the memorandum and articles of association of the company, and by details of the capital of the company (including debentures), and those details shall distinguish vendors' consideration or shares from other shares and shall disclose the names of the registered holders of the capital; and every such application, by whomsoever made, shall state—

(a) the situation and extent of the land which the applicant desires to use as sites for generating stations, the names of the owners thereof and of the occupiers (if any), and in the case of land held under mining title, the name of the holders of such title;

(b) the sources from which it is intended to draw the water required for the undertaking and the probable quantity so required;

(c) the area within which it is intended to undertake the supply of power;

(d) the route which it is intended that the transmission lines shall take, the situation and extent of any land to be used for distribution stations, the names of the owners of land to be used for such stations and the occupiers (if any) of such land, and if the land be held under mining title, the names also of the holders of such title;

(e) whether powers of opening and breaking-up the soil of streets, roads, squares, or open or enclosed public places are desired, and, if so, within what area;

(f) the schedule of standard prices which the applicant proposes to charge consumers and the classes of consumers for whom it is intended to undertake the supply of power and the minimum amount of power that it is proposed to supply to any one consumer;

(g) a detailed estimate of the cost to the applicant of generating power;

(h) particulars of any contracts which the applicant may have entered into with any person in respect of the proposed undertaking, whether the contracts be provisional or otherwise;

(i) such further particulars and information as may be prescribed by regulation.

(3) The Minister, upon receipt of any application under this section, shall forthwith refer the same with the plans and particulars aforesaid to the board, which shall forthwith publish, at the expense of the applicant, in three consecutive ordinary issues of the *Gazette* and in a newspaper circulating in every district within which powers of supply are applied for, notice that such an application has been made, and shall, in that notice, state the date, hour, and place at which it will sit to hear the application and any objections thereto; provided that written notice of any objection shall be lodged by the objector with the board and with the applicant not less than seven days prior to such date.

Whenever an applicant desires to supply power within the area of supply of any licensee, he shall give written notice to that licensee and serve the same at his usual business address not less than twenty-one days before the date fixed for the hearing of the application.

(4) The board shall—

(a) inquire into the application and any objections thereto;

(b) recommend to the Minister whether the application be granted or refused;

(c) if it recommends the grant of the application, set forth the conditions (if any) which should be attached thereto or the modifications (if any) which should be made in any scheme proposed.

(5) On receipt of the recommendations of the board the Governor shall grant or refuse the application, but on the grant of an application no conditions shall be attached which are inconsistent with this Act or the regulations.

5. (1) Whenever an applicant for a licence desires to construct any transmission line through a municipality he shall send to the town clerk thereof notice of his application specifying the route of every such line so far as it will traverse the municipality.

(2) Whenever an applicant for a licence desires to supply power within a municipality the applicant shall send to the town clerk thereof notice of his application together with the particulars specified in paragraphs (c), (d), (e) and (f) of sub-section (2) of section *four* so far as they relate to supply of power within that municipality. Any person authorized in writing by the council of that municipality shall be entitled with the approval of the chairman of the board to inspect and take copies of any documents lodged with the board by the applicant. Not less than seven days prior to the date fixed for the hearing of the application the council shall lodge with the board and with the applicant its objections (if any) to the application, and at the hearing, the council shall be entitled to be heard by counsel, attorney, or otherwise, in support of any such objection.

(3) In granting any licence for the supply of power within the municipality the Governor may attach thereto restrictions and conditions relative to the consumers or classes of consumers to whom power may be supplied or the purposes for which it may be supplied, and in particular may impose a condition that the licensee may not supply power within that municipality without

Applications for licences to transmit through or supply power within municipalities.

the consent of the council thereof, except for use in mining or purposes incidental thereto or except to the railway administration or to any Government department.

(4) Where any such licence is granted without the particular condition described in sub-section (3) the licensee shall not supply power within that municipality without the consent of the council thereof, except for use in mining or purposes incidental thereto or except to the railway administration or to any Government department but the consent of the council shall not be unreasonably withheld.

(5) If the licensee alleges that the consent of the council has been in any case unreasonably withheld, the matter shall be decided by the Governor after inquiry by the board sitting in public. The procedure described in sub-section (2) shall *mutatis mutandis* be followed in connection with such inquiry.

(6) After such inquiry the Governor may authorize the licensee to supply power on such conditions as to the Governor may seem fit or the Governor may refuse to authorize such supply. It shall be unlawful for the licensee to supply power without the consent of the council in any such case where the Governor has refused his authorization.

(7) The Governor shall cause to be transmitted to the council and to the licensee the reasons for any decision under sub-section (5).

6. (1) A licence shall be in such form as the Minister may approve and the name of the licensee, his head office, and a description of the undertaking carried on by him and all the conditions upon which the licence has been granted shall be stated in it.

Form and conditions of licence<sup>a</sup>

(2) It shall be a condition of every licence—

- (a) that it shall not be assignable nor transferable to any other person without the consent of the Minister ;
- (b) that it shall not be used in respect of any undertaking other than is mentioned in the licence :
- (c) that no power be supplied other than within the area of supply specified in the licence ;
- (d) that no generating station, distribution station, or transmission line be used by the licensee, except such as are described upon the licence ;
- (e) that the licensee shall not, except with the consent of the Minister, carry on within the Colony any business or undertaking other than the licensed undertaking (including therein a reasonable supply to consumers on sale or lease of installations and plant to enable them to utilize power) or the manufacture of such articles or materials as are required solely for carrying on the licensed undertaking or the sale of by-products ;
- (f) that the licensee shall not, without the approval of the Minister, enter into partnership with any other person in the Colony or acquire an undertaking or business supplying power therein or an interest in any such undertaking or business, or dispose of any part of his own undertaking ;



(g) that the licensee shall not except with the approval of the Minister use for the purposes of his undertaking any coal which is obtained from any coal mine within or outside the Colony in which he is interested directly or indirectly as owner, part owner, shareholder, mortgagee or otherwise.

(3) The grant of a licence shall not be deemed to confer any monopoly upon the licensee or upon any person to whom the licence is assigned.

(4) The Governor may, in his discretion, prescribe in the licence the maximum amount of power which may be generated at any particular generating station or within any particular area and any such limitation shall be inserted as a condition in the licence.

(5) Every licence when granted shall, with all the conditions thereof, be notified for public information in the *Gazette*.

Alterations of conditions of licence.

7. If a licensee desires that his licence be added to or amended, he shall make written application to the Minister.

The provisions hereinbefore contained relating to applications for licences and the consideration of such applications shall be followed in the case of applications under this section.

Any addition to or amendment of a licence shall be notified for public information in the *Gazette*.

Powers of licensee to open and break up streets.

8. (1) The licensee, under the superintendence of the authority having the control and care of any street, may break up any such street within an area specified in his licence, and may open and break up any sewers, pipes, or works, within or under any such street, and erect posts and lay or construct pipe lines or power lines along, under, or over any such street, and from time to time repair, alter, or remove any such lines or posts. In the execution of such powers the licensee shall do as little damage as may be, and shall make compensation for any damage done.

(2) Before the licensee exercises any power conferred by this section, he shall give to the authority aforesaid, notice in writing of his intention so to do, not less than seven days before commencing to exercise the power, except in cases of emergency, and in such cases, as soon as possible after the emergency has arisen.

(3) The powers of this section shall, except in cases of emergency, only be exercised under the superintendence of the authority aforesaid and according to such plan showing the route and such specification, as may be approved by that authority, or if any difference arise respecting the plan, route, or specification, then as may be approved by the Minister; provided that if the said authority, fail to exercise the powers of superintendence herein conferred after such notice as aforesaid has been given, the licensee may exercise those powers without such superintendence.

(4) Whenever a licensee carries out any work authorized by this section he shall, as soon as may be, complete that work and reinstate and make good the street or the sewer, pipe, or work opened or broken up and remove the rubbish occasioned thereby, and shall, while the street is opened or broken up or obstructed, cause the works to be at all times fenced and guarded, and, during the night, lighted.

(5) If the licensee fail to carry out any duty imposed upon him by sub-section (4) the authority aforesaid may cause any work delayed or omitted, to be executed at the expense of the licensee.

(6) The licensee shall pay to the authority the costs reasonably and necessarily incurred by it in exercising any superintendence under this section.

(7) Nothing contained in this section shall be deemed to relieve the licensee from any liability in respect of loss or damage caused by his negligence in carrying out such works or for his failure to comply with the provisions of this section.

(8) For the purposes of this section "street" shall include any road, square, or open or enclosed public place the control or care of which is vested in any authority.

9. No rights on or over land which is not proclaimed land or land held under mining title (as defined by the Precious and Base Metals Act 1908 or any amendment thereof) shall be acquired by a licensee for any purpose of his undertaking except with the consent of the registered owner of the land.

No compulsory expropriation of land.

#### DUTIES OF LICENSEE.

10. (1) Every licensee shall, up to the limit (if any) of power which he can generate under and subject to the conditions of his licence, supply power within the area of supply mentioned in his licence to every person applying for the same, except in so far as his right to supply may be restricted or compulsory supply may be excluded by the terms of the licence.

Duties of licensee.

(2) Every applicant for such supply shall give written notice to the licensee stating

- (a) the date on which supply is required to commence ;
- (b) the amount of power required ;
- (c) the hours at which the supply will be required ;
- (d) the duration of time for which supply will be required, not being less than one year.

(3) In case of undue delay or refusal on the part of the licensee to supply any such applicant, such applicant may appeal to the Minister, who shall decide whether the licensee shall supply, and who may prescribe, with due regard to the provisions of sections *twelve* and *thirteen*, the charges to be made for the supply, the conditions relative to the deposit of moneys to cover expenses necessary or incidental to the installation and equipment of the plant, and any other conditions the Minister may deem necessary for the protection of the licensee and the consumer.

(4) The licensee shall commence supply within the following periods :—

For a supply not exceeding 300 kilowatts, within six months of the Minister's decision.

For a supply not exceeding 600 kilowatts, within nine months of the Minister's decision.

For a supply not exceeding 1000 kilowatts, within twelve months of the Minister's decision.

For a supply not exceeding 2000 kilowatts, within fifteen months of the Minister's decision.

For a supply not exceeding 3000 kilowatts, within eighteen months of the Minister's decision.

For a supply exceeding 3000 kilowatts, such period as the Minister may determine.

(5) No person shall be entitled to a supply of power for any premises having a separate supply of power unless he has agreed to pay such minimum annual sum as will in the judgment of the Minister give the licensee a reasonable return on such capital expenditure as may be incurred by the licensee in order to meet the possible maximum demand for those premises and will cover other standing charges so incurred.

Duty to  
supply  
without  
intermission  
save for  
inevitable  
accident, etc

11. (1) No licensee shall, unless prevented by causes beyond his control, be entitled to lessen or discontinue the supply of power stipulated in the contract of supply, unless

(a) the consumer has failed to pay the agreed charges or to comply with the conditions of supply or the regulations or is insolvent; and, except in case of insolvency;

(b) the licensee has transmitted a written notice to the consumer calling upon him to remedy his default; and

(c) the consumer has failed to remedy his default within fourteen days after receiving the notice.

(2) Save as is provided in sub-section (1), if a licensee wilfully or without reasonable cause or owing to his insolvency lessen or discontinue the supply of power stipulated in the contract of supply or if a licensee carry on the undertaking in such a manner as is, in the opinion of the Governor, detrimental to the interests of the State, the Governor may, in his discretion, enter upon and take possession of the licensee's undertaking and shall in that event work the same for and on account of the licensee and at his risk, rendering the balance (if any) of the net revenue derived from the undertaking to the licensee. No such entry by the Governor shall prejudice or affect the security of any debenture-holders, bondholders, or mortgagees, or their rights of enforcing such security.

The Governor shall not restore possession of the undertaking to the licensee until he is satisfied that the causes on account whereof the entry was made have been removed or would no longer prevent the proper working of the undertaking.

#### CHARGES.

Scale of  
prices and  
period of  
revision.

12. A licence may contain a schedule of standard prices chargeable by the licensee for the supply of power, and may provide for a periodic revision of such schedule and for the sharing of surplus profits as follows:—

(a) At the completion of not less than seven years from the date of the licence and thereafter at intervals to be stated in the licence (not being less than three years) the Minister shall revise the schedule of standard prices chargeable until the next ensuing revision. Provision shall be made in a manner to be more particularly specified in the licence that at the revision not more than one-half of the reduction (if any) effected during the interval by the licensee in the cost of supplying power shall be applied to a reduction of the said

schedule of prices and that such other circumstance as may be specifically described in the licence be taken into account. Provision may also be made in the licence for an automatic adjustment of prices at any time consequent upon an alteration in railway rates or any other circumstances which the Minister may prescribe.

(b) The licensee shall within four months after the completion of each financial year of his undertaking pay to his consumers pro rata to their consumption during that year twenty-five per cent. of the surplus profit.

“Surplus profit” shall be ascertained by deducting from the gross revenue of the licensee, the working expenditure, head office and administration expenses, maintenance and such other charges and such interest on share capital and such interest on debentures as the licence may provide for.

Nothing in this section shall be construed as nullifying or in any way affecting any provision for the revision of prices or the ascertainment of surplus profits contained in any contract for the supply of power made before the first day of April, 1910, if, in the opinion of the Minister, that provision is not detrimental to the interest of any consumer, and any such provision may be inserted in the licence for the undertaking by which any such contract is carried out and made applicable to all consumers supplied by such undertaking.

In calculating interest upon share and debenture capital of companies formed after the commencement of this Act and obtaining licences thereunder the allowance to be made under this section in respect of any consideration passing to a vendor, promoter, or founder shall not exceed twenty per cent. of the share and debenture capital of the company.

13. Any charges made by a licensee for the supply of power to consumers within his area of supply shall be those specified in the schedule of standard prices; provided that a licensee may vary his charges either above or below the standard price with due regard to any or all of the following circumstances:—

Uniform charges except in certain events.

- (a) The amount of power consumed;
- (b) the uniformity or regularity of demand;
- (c) the time when or during which the power is required;
- (d) the expenditure of the licensee in furnishing the supply;
- (e) any special circumstances.

If any dispute arise between the licensee and the consumer as to the application of such circumstances the matter shall be referred to the Minister, whose decision shall be final.

No arrangement between the licensee and any consumer whereby any charge to that consumer will be reduced below the standard price shall be valid, unless the proposal for reduction be first submitted to the Minister and approved by him.

14. No advantages, rebates, preferences, or privileges shall be granted to any consumer, except as provided by this Act or as the Minister may permit.

No special privileges to be granted to consumers.

REVOCATION OF LICENCES AND EXPROPRIATION BY THE  
GOVERNMENT OF UNDERTAKINGS.

Revocation of  
licence.

15. (1) A licence in respect of an undertaking shall be revoked whenever the Governor expropriates that undertaking under either of the next two succeeding sections.

(2) The Governor may at any time revoke a licence

(a) if the licensee, having broken the conditions described in paragraphs (b), (c), (d), or (e) of sub-section (2) of section six, continues the breach of any of those conditions after not less than one month's notice in writing from the Minister to discontinue the breach ;

(b) if the licensee has broken the conditions mentioned in paragraphs (f) and (g) of the said sub-section or in sub-section (4) of section six ;

(c) if the licensee fails to satisfy the Minister within a period stated in the licence that he is able to discharge efficiently and in all respects the obligations imposed by the licence ;

(d) if the licensee fails to deposit such security as may be required by the licence ;

(e) if the licensee consent to revocation.

Nothing in this sub-section contained shall be deemed to take away the right of any person to have recourse to a court of law for an order setting aside the revocation of his licence if the revocation was upon grounds mentioned in paragraph (a) or (b) of this sub-section and he alleges that he has not broken the conditions in those paragraphs referred to.

Power of  
Governor to  
expropriate  
undertaking  
after thirty-  
seven years.

16. Whenever a period of not less than thirty-five years shall have expired since the issue of a licence, the Governor may give to the licensee not less than two years' notice of his intention to expropriate the undertaking, and, upon the expiry of that notice shall expropriate the undertaking on the terms and conditions following, that is to say, the Governor shall pay to the licensee the existing value of the lands, buildings, works, machinery, materials, and plant belonging to or used by the licensee in respect of his undertaking. Such existing value shall be the fair value at the time of expropriation, due regard being had to the nature of the lands, buildings, works, machinery, materials, and plant, and to the state of repair and condition in which the same are found, to their suitability for the purposes of the undertaking and to the circumstance that they are in such a condition as to be ready for immediate working. No addition shall be made to the price

(a) by reason that the purchase is compulsory ; or

(b) for goodwill ; or

(c) by reason of prospective profits ;

or on account of any similar circumstance or consideration.

Taking  
over of  
undertaking  
on other  
revocation of  
licences.

17. In the event of a licence being revoked under sub-section (2) of section fifteen, the Governor may cause entry to be made upon the undertaking and shall, in such event, carry on or provide for the carrying on of the undertaking, and shall have the right to purchase the whole of the land, buildings, plant, and

machinery on the terms described in section *sixteen*; no such entry made under this section shall prejudice or affect the security of any debenture-holders, bondholders, or mortgagees or their rights of enforcing their security.

18. If any dispute shall arise between the Governor and a licensee or other person carrying on an undertaking as to the amount of the purchase price under any of the last two preceding sections, the amount shall be determined by arbitration and the provisions of the Arbitration Ordinance 1904, and any amendment thereof shall apply to such an arbitration.

Arbitration in case of dispute as to amount payable on expropriation, etc.

#### MISCELLANEOUS PROVISIONS.

19. (1) Any person who fraudulently abstracts or causes to be abstracted or diverts or causes to be diverted any electric current or consumes or uses any such current which has been fraudulently abstracted or diverted knowing the same to have been fraudulently abstracted or diverted, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for theft.

Offences.

(2) Any person who unlawfully and maliciously cuts or injures or interferes with any apparatus for generating, transmitting, or distributing power, with intent that the supply thereof be suspended or cut off, shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand pounds or to imprisonment without the option of a fine for a period not exceeding ten years.

20. (1) In any proceedings arising out of damage or injury caused by induction or electrolysis or otherwise by means of electricity generated or transmitted by or escaping from electric plant or machinery, it shall not be necessary for the plaintiff to prove that the damage or injury was caused by the negligence of the defendant, but the burden of proving that all due diligence was used by him shall lie upon the defendant.

Burden of proof, etc., in accidents caused by power plant.

(2) It shall be a defence to any such proceedings that the damage or injury was due to the wilful act or to the negligence of the person injured or of some person not in the employ of the defendant or of some person operating the plant or machinery of the defendant without his consent.

21. Any person appointed by a licensee may at all reasonable times enter any premises to which power is or has been supplied by the licensee in order to inspect the lines, meters, fittings, works, and apparatus for the supply of power belonging to the licensee and for the purpose of ascertaining the quantity of power consumed, or, where a supply of power is no longer required, or where the licensee is authorized to cut off the supply of power from any premises for the purpose of removing any lines, meters, fittings, works, and apparatus belonging to the licensee, repairing all damage caused by such entry, inspection, or removal.

Right of entry and inspection by licensee.

22. Any lines, meters, fittings, works, or apparatus belonging to a licensee placed in or upon any premises not in his possession shall, whether they be or be not fixed or fastened to any part of such premises, continue to be the property of and to be removable

Right of licensee to remove lines, fittings, etc.

by the licensee, and shall not be subject to the landlord's hypothec for rent of such premises, nor to be taken in execution under any process of law or any proceedings in insolvency or liquidation against the owner or occupier of such premises; provided that the lines, meters, fittings, and apparatus have upon them distinguishing metal plates or other brands or marks sufficiently indicating the licensee as the actual owner thereof.

For the purposes of this and the last preceding section, lines, meters, fittings, and apparatus let on hire by the licensee, and lines, meters, fittings, and apparatus disposed of by the licensee on terms of payment by instalments, until such instalments have been paid, shall be deemed to belong to the licensee.

Power to inspect documents connected with licensed undertaking.

23. (1) The Minister and any person authorized in writing by him may at all reasonable times enter upon the premises of any undertaking and inspect any plant, machinery, books and accounts, documents, contracts for the supply of power, and any other contract made by the licensee in respect of his undertaking.

(2) The Minister and any person authorized as aforesaid may call for returns of any such books, accounts, documents, and contracts and demand that the return be verified on oath by the licensee.

(3) Any person who refuses to allow any such inspection or fails to comply with any such demand or wilfully obstructs or hinders the Minister or person authorized as aforesaid in any such inspection shall be liable to a fine not exceeding one hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months.

(4) If any person divulge information obtained by him upon such inspection, except for the purposes of carrying out his duties under this Act or the regulations or upon the order of or in answer to questions put to him as a witness in a court of law or at an arbitration under this Act, he shall be guilty of an offence and liable to the penalties mentioned in sub-section (3).

Power to enter.

24. The Minister may authorize any person to enter by himself or with his servants, animals, vehicles, and implements upon any land or premises and remove any machinery or plant erected or installed in contravention of this Act or the regulations, and any person obstructing or hindering any person so authorized or his servants in carrying out any work which they may lawfully carry out under this Act or the regulations shall be liable on conviction to a fine not exceeding one hundred pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

Penalties for unauthorized working.

25. (1) If any person carry on an undertaking except under the authority of a licence, or carry on an undertaking in contravention of the provisions of this Act or the regulations or of the terms of any licence, or if any licensee fail to carry out any decision of, or fail to fulfil any condition fixed by, the Minister under sub-section (3) of section *ten*, he shall be liable to a penalty not exceeding fifty pounds for every day upon which the undertaking is so carried on or the failure continues and, in case an

unlicensed undertaking be carried on, any such person may be called upon to pay over to the Governor the whole of the net revenue derived from the undertaking for every such day.

(2) Any penalties or moneys payable under this section may be recovered by the Minister by action in a competent court.

26. In any proceedings for a contravention of this Act by a company the secretary and every manager or director of such company who is in control of the business thereof in this Colony shall be liable to the penalties prescribed for any such contravention, and, in the event of any such contravention by a partnership, every member of such partnership shall be liable to such penalties aforesaid; provided that nothing in this section contained shall be deemed to exempt from liability any other person guilty of any such contravention.

Liability to penalties in case of contravention of Act by companies and partnerships.

27. (1) Any person desiring to engage in the business of supplying to any other person power not exceeding twenty million units during any one year shall make application to the Minister for permission to do so.

Supply of power not exceeding twenty million units per year.

(2) The Governor may grant such permission subject to such conditions as he may prescribe, and may attach to the permission provisions for preventing the holder thereof from obtaining privileges, advantages or preferences which would operate unfairly against any other person supplying power.

(3) Applicants for, or holders of, any such permission shall supply such information, and make such returns as the Minister or the board may at any time require.

\*28. (1) The Governor may, from time to time, make, alter, or rescind regulations (not repugnant to or inconsistent with the provisions of this Act)—

Power to make regulations.

(a) prescribing the form and manner of any application and objections thereto under the Act and fees to be payable in respect thereof;

(b) prescribing the dates and the conduct of the meetings of the board;

(c) prescribing conditions other than are mentioned in this Act, which may be attached to the grant of licences;

(d) for the protection of the public from damage owing to the exercise of rights granted under this Act;

(e) as to inspections and inquiries into the conduct and operation of undertakings;

(f) prescribing the units or standards for the measurement of power, and providing for the verification of meters and the fees to be charged therefor and the settlement of disputes as to measurements of power and limits of error;

(g) prescribing the mode of supplying power;

(h) prescribing penalties for contravention of or failure to comply with a regulation or any condition of any permission described in the last preceding section;

and generally for the better carrying out of the objects and purposes of this Act.

\* For regulations, see Govt. Notice No. 566 of 1910 (*Gazette*, 27/5/10).



(2) Every such regulation and every alteration or rescission thereof shall within seven days after it has taken effect be laid upon the tables of Parliament, if Parliament be then in session, or if it be not then in session, within seven days after the commencement of its next ensuing session.

Saving of provisions of Act No. 27 of 1908 and Act No. 35 of 1908 and Municipal Corporation Laws.

29. (1) Nothing in this Act contained shall affect the provisions of the Irrigation Act, 1908, or the Precious and Base Metals Act, 1908, relative to the obtaining of the use of water to develop power or the law for the time being relating to the construction, maintenance, and working of electric telegraphs or telephones by the Post Office or Railway Administration.

(2) Save as is otherwise specially provided in this Act, nothing therein contained shall be deemed to abrogate or alter any powers, rights, privileges, or duties conferred upon any municipal council under any general or special law regulating the powers, rights, duties, and privileges of that council, or to prevent such a council from carrying on without a licence an undertaking to supply power.

Title and date of operation of Act.

†30. This Act may be cited for all purposes as the Power Act, 1910, and shall come into operation on a date to be hereafter fixed by proclamation of the Governor in the *Gazette*.

† Put into operation from 28th May, 1910, by Proc. (Admn.) No. 39 of 1910.

# APPENDIX.

No. 50 of 1903.]

[Promulgated 31st July, 1903.]

## \* ORDINANCE

TO PROVIDE FOR THE ISSUING OF CERTIFICATES OF COMPETENCY  
TO PERSONS ENGAGED IN MINING.

(Assented to 27th July, 1903.)

WHEREAS it is desirable to make better provision for the issuing of Certificates of Competency to mine managers mine overseers mine surveyors engine-drivers and for miners entitled to blast;

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. § It shall be lawful for the Lieutenant-Governor to frame rules and regulations for granting Certificates of Competency with or without examination to

(a) mine managers;  
(b) mine overseers;  
(c) mine surveyors;  
(d) engine-drivers;  
(e) miners entitled to blast;  
(f)† *mechanical engineers.*

Power to Lieutenant-Governor to make regulations as to grant of Certificate of Competency.

2. ‡ Any person who obtains or attempts to obtain a Certificate of Competency under this Ordinance by means of fraud or false pretences or any false document shall be liable to a fine not exceeding seventy-five pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months and any certificate obtained by any such means shall become thereupon cancelled.

Penalty for obtaining Certificate of Competency by fraud.

3. † Persons applying for any of the certificates mentioned in section *one* or to be admitted to any examination for such certificate shall pay such fees as may be prescribed by any regulations framed by the Lieutenant-Governor under this Ordinance.

Fees payable for Certificates of Competency.

4. Law No. 14 of 1899 is hereby repealed.

Repeal.

5. This Ordinance may be cited as The Mining Certificates Ordinance 1903.

Title.

\* This Ordinance has been repealed by Act No. 32 of 1909, sec. 1, which Act however, although amended by Act No. 8 of 1910, has, with the latter, not as yet been put in force. See Ords. Nos. 54 of 1903, 31 of 1905, and 11 of 1906.

† For Regulations see Regulations of 1903 (*Gazette*, 31/7/03), Govt. Notices Nos. 872 of 1903 (*Gazette*, 21/8/03), 400 and 401 of 1904 (*Gazette*, 18/3/04), 340 of 1905 (*Gazette*, 20/4/05), 123 of 1906 (*Gazette*, 2/2/06), 197 of 1906 (*Gazette*, 23/2/06), 995 of 1906 (*Gazette*, 5/10/06), republished as amended in *Gazette*, 19/10/06), 1232 of 1906 (*Gazette*, 30/11/06), 255 of 1907 (*Gazette*, 1/3/07), 1116 of 1907 (*Gazette*, 11/10/07), and 121 of 1908 (*Gazette*, 31/1/08).

‡ Sub-section (f) added by Ordinance No. 11 of 1906, sec. 1.

† See Ordinance No. 11 of 1906, sec. 1.

No. 54 of 1903.]

[Promulgated 31st July, 1903.]

† ORDINANCE

TO AMEND THE LAW RELATING TO THE WORKING OF MINES,  
WORKS, AND MACHINERY.

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(Assented to 27th July, 1903.)

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BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Interpreta-  
tion of terms.

1.\* *In this Ordinance and any amendment thereof and in any regulations made thereunder unless inconsistent with the context—*

“mine” shall mean and include all excavations for the purpose of searching for or winning minerals as well as all working of mineral deposits whether abandoned or actually being worked on the surface from the surface downwards and underground together with all buildings erections and appliances belonging or appertaining thereto above and below ground for the purpose of prospecting for or winning metals minerals or precious stones by excavating or dredging;

“mineral” shall mean and include all substances which can be obtained from the earth by mining digging or quarrying operations for purposes of profit including mineral oils;

“works” shall mean and include chemical works metallurgical works reduction works ore-dressing works petroleum works salt works brickmaking works pottery works lime works and any places where machinery is erected or used and all dams reservoirs and other appliances for conserving water or for producing or transmitting energy or for transporting water or material for the same;

“machinery” shall include stationary and portable boilers steam apparatus steam and other engines including locomotives and all appliances or combination of appliances which can be used for developing receiving transmitting or converting power either mechanical or natural;

“owner” of a mine or of works or machinery shall mean and include any person who is the immediate holder or

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† This Ordinance has been repealed by Act No. 32 of 1909, sec. 1, which Act, however, although amended by Act No. 8 of 1910, has, with the latter, not as yet been put in force. See Ord. No. 31 of 1905.

\* This section substituted by Ordinance No. 31 of 1905, sec. 1.

*lessee of a mine or of works or machinery or part thereof and a tributor for the working of a mine or any part thereof and in the case of a mine or works or machinery owned by a company or syndicate the term "owner" shall mean and include the chairman thereof or any director or member of such company or syndicate. A person who owns only the soil on which a mine or any works or machinery is situate shall not be deemed to be an "owner" for the purposes of this Ordinance.*

2. The supervision of all mines and works and machinery shall be exercised by the Government Mining Engineer the inspectors of mines the inspectors of machinery and other officers duly appointed by the Government in that behalf. The inspectors of mines and inspectors of machinery shall act under the Government Mining Engineer who shall assign them their duties and districts.

Official supervision of mines works and machinery.

3.† It shall be lawful for the Lieutenant-Governor to make regulations in respect of mines works or machinery for any of the following purposes:—

Power to make regulations as to mines works and machinery.

(a) For the protection and preservation of the surface of mines or works ‡ *and of buildings roads railways and other structures and enclosures on or above the surface of the ground and for laying down conditions under which such buildings roads railways structures and enclosures may be undermined;*

(b) for the making and keeping of mine plans and for depositing copies of the same with the Mines Department;

(c) providing for making statistical and other reports relating to mines works and machinery;

(d)§ defining the duties and responsibility of owners managers overseers and other persons engaged in or about mines works and machinery;

(e) for appeals from any decision of or instruction given by an inspector of mines or machinery;

(f) for the storage receipt distribution transport and use of explosives;

(g) for the holding of inquiries in cases of accident and for authorizing the summoning of witnesses and their examination on oath at such inquiries;

(h) providing for ambulances and medical aid in case of accident;

(i) for prescribing the conditions upon which machinery may be erected or used;

† For Regulations see Govt. Notices Nos. 826 of 1903 (*Gazette*, 31/7/03 and 14/8/03), 827 of 1903 (*Gazette*, 14/8/03), 304 of 1905 (*Gazette*, 7/4/05), 1100 of 1905 (*Gazette*, 22/12/05), 3 of 1906 (*Gazette*, 5/1/06 and corrected by Govt. Notice No. 130 of 1906, *Gazette*, 2/2/06), 173 of 1906 (*Gazette*, 16/2/06), 196 of 1906 (*Gazette*, 23/2/06), 640 of 1906 (*Gazette*, 29/6/06), 759 of 1906 (*Gazette*, 3/8/06), 1232 of 1906 (*Gazette*, 30/11/06), 183 of 1907 (*Gazette*, 8/2/07), 1003 of 1907 (*Gazette*, 13/9/07), 1125 of 1907 (*Gazette*, 11/10/07), 429 of 1908 (*Gazette*, 8/5/08), 1178 of 1908 (*Gazette*, 20/11/08), 1278 of 1908 (*Gazette*, 24/12/08), 696 of 1909 (*Gazette*, 25/6/09), and 1482 of 1909 (*Gazette*, 31/12/09).

‡ Words in italics added by Ordinance No. 31 of 1905, sec. 2.

§ As amended by Ordinance No. 31 of 1905, sec. 2 (2).

- (j) for prescribing the fees payable for licences and inspections under this Ordinance;
- (k) providing penalties for the breach of such regulations;
- (l) generally for the proper working and management of all mines and works and of machinery;
- (m)\* *prohibiting the making of roads or railways over or the erection of buildings or other objects on areas which have been undermined and are thereby dangerous;*
- (n)\* *for safeguarding the health of persons employed in or about mines and works;*
- (o)\* *for regulating the procedure to be followed in connection with trials under section seven of this Ordinance.*

Special rules for order and discipline in mines; by mine managers.

4. In addition to the regulations referred to in the last preceding section the manager of a mine or works may make special rules not inconsistent with this Ordinance or any regulation made under the last preceding section for the maintenance of order and discipline and the prevention of accidents in such mine or works. Such rules shall be submitted through the inspectors of mines to the Government Mining Engineer for approval after they have been posted up at the mine or works for fourteen days.

The Government Mining Engineer if he considers such rules unreasonable or otherwise objectionable may require them to be altered.

Such rules when so approved shall have the same force and effect as regulations made under the last preceding section and any person contravening any such rules shall be liable to a penalty not exceeding five pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding fourteen days.

Sunday work unlawful excepting unavoidable necessary work.

5. † (1) *No person shall perform or cause or permit to be performed any work in or about any mine on Sundays Christmas Day or Good Friday unless such work be*

- (a) *attending to and working pumping machinery and steam boilers belonging to the same;*
- (b) *such repairs above or below the surface as cannot be delayed without causing damage or which cannot be done upon any other day without unduly interfering with labour on or in a mine in which class of work shall be included labour in workshops necessary and incidental to such repairs;*
- (c) *the chemical treatment of ore;*
- (d) *the keeping on of blast or smelting furnaces;*
- (e) *the running of stamp mills or other machinery used for crushing ore;*

*provided always that special permission may be granted by the Government Mining Engineer on application to an inspector of mines for the carrying on temporarily of any work (other than work in this section mentioned) on the days aforesaid in or about any mine.*

\* Sub-secs. (m), (n), and (o) added by Ordinance No. 31 of 1905, sec. 2 (3).

† This section was substituted by Ordinance No. 31 of 1905, sec. 3. See Govt. Notice No. 1176 of 1903 (*Gazette*, 16/10/03).

(2) *The terms "Sundays" "Christmas Day" and "Good Friday" in this section shall mean the period from twelve o'clock midnight on the day previous to any such day to twelve o'clock midnight on any such day.*

(3) *Any person who shall contravene the provisions of this section shall be liable on conviction to a fine not exceeding seventy-five pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.*

6. *A new section six was substituted by Ordinance No. 31, 1905, section four: the latter section has, however, been repealed by Act 35, 1908, section two.*

Lieutenant-Governor may permit construction of railway-siding or tramway.

7. *The Government Mining Engineer shall have the right at his discretion to permit the driving of a connecting tunnel by any person working a mine through ground held under a mining title by another person provided that*

Permission of Government Mining Engineer to drive connecting tunnels.

(a) *such tunnel is necessary for the improved working of the mine;*

(b) *that the making of such tunnel shall not hinder the working of such ground;*

(c) *that the person making the tunnel shall make good all damage arising from the making thereof;*

(d) *that the minerals extracted in such tunnel shall be handed over to the person entitled to the minerals in such ground free of cost.*

8.† *No boy whether white or coloured under the age of fourteen years and no female person shall be employed underground on any mine; and no white person under the age of eighteen years shall be permitted or caused to work for any longer period than ten hours in any one day or for longer than fifty-six hours in any one week in any mine or works except for the purpose of performing such work as is prescribed in sub-section (1) (b) of section three\* hereof. Any person contravening the provisions of this section shall be liable on conviction to a fine not exceeding ten pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding fourteen days.*

Employment of juveniles underground prohibited.

9. *Any person obstructing or hindering any official of the Mines Department in the discharge of his duty or disobeying any lawful order given by any such official or refusing or neglecting to furnish such officer with the means and assistance necessary for making an entry inspection examination or inquiry under this Ordinance or any regulation made thereunder shall be liable to a fine not exceeding one hundred and fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months.*

Obstruction of or disobedience to orders of officials.

† This section substituted by Ordinance No. 31 of 1905, sec. 8.

\* This apparently refers to sec. 3 (1) (b) of Ordinance No. 31 of 1905, which is now incorporated as sec. 5 (1) (b) in Ordinance No. 54 of 1903.

Penalty for  
contravening  
regulations.

10. † *Any person contravening any provision of this Ordinance or of any regulations framed under section three or of any rules framed under section four thereof shall whenever no penalty is expressly provided by this Ordinance or by such regulations or rules for such contravention be liable upon conviction to a fine not exceeding one hundred and fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months and every court of resident magistrate shall have special jurisdiction to impose the maximum penalty hereby authorized.*

Penalty on  
owner or  
manager for  
acts or  
omissions  
endangering  
safety or  
causing  
injury.

11. § *If any person by any act or omission or by any contravention of this Ordinance or any regulations made under section three thereof*

*(a) shall endanger the safety of any person he shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding six months or to a fine not exceeding two hundred and fifty pounds or in default of payment to such imprisonment as aforesaid;*

*(b) shall cause serious bodily injury to any person he shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding one year or to a fine not exceeding five hundred pounds or in default of payment to such imprisonment as aforesaid;*

*provided always that nothing in this section or in section ten contained shall exempt any person from prosecution for an offence under the common law or any statute nor prevent the infliction on such person if convicted for such offence of a more severe penalty than is prescribed for a contravention of this Ordinance or the regulations thereunder.*

Repeal of  
laws.

12. Article 2 of Law No. 28 of 1896 in so far as it applies to the working of a mine and Laws No. 11 of 1898 and No. 12 of 1898 and any other law repugnant to or inconsistent with the provisions of this Ordinance are hereby repealed.

Title.

13. This Ordinance may be cited as the Mines Works and Machinery Regulations Ordinance 1903.

† This section substituted by Ordinance No. 31 of 1905, sec. 5.

§ This section substituted by Ordinance No. 31 of 1905, sec. 6.



No. 31 of 1905.] [Promulgated 6th October, 1905.]

\* AN ORDINANCE

TO AMEND THE MINES WORKS AND MACHINERY REGULATIONS  
ORDINANCE 1903.

(Assented to 30th September, 1905.)

WHEREAS it is expedient to amend the Mines Works and Machinery Regulations Ordinance 1903 (in this Ordinance described as the "principal law");

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. Section *one* of the principal law shall be and is hereby repealed and there shall be substituted therefor the following provision:—

*For text see Ordinance No. 54, 1903, section one.*

Repeal of interpretation section of Ordinance No. 54 of 1903 and substitution of new section.

2. Section *three* of the principal law shall be and is hereby amended as follows:—

(1) By the addition to sub-section (*a*) thereof of the words "and of buildings roads railways and other structures and enclosures on or above the surface of the ground and for laying down conditions under which such buildings roads railways structures and enclosures may be undermined".

(2) By the omission of the word "mine" from sub-section (*d*) thereof.

(3) By the addition to the said section of the following new sub-sections:—

*For text see Ordinance No. 54, 1903, section three (m) (n) (o).*

Amendment of section *three* of Ordinance No. 54 of 1903 by additional powers as to making Regulations.

3. Section *five* of the principal law shall be and is hereby repealed and there shall be substituted therefor the following provisions:—

*For text see Ordinance No. 54, 1903, section five.*

Repeal of section *five* of Ordinance No. 54 of 1903 and substitution of new provisions as to work on Sundays Christmas Day and Good Friday.

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\* This Ordinance has been repealed by Act No. 32 of 1909, sec. 1, which Act, however, although amended by Act No. 8 of 1910, has, with the latter, not yet been put in force.

*Mines Works and  
A.D. 1905.] Machinery Regulations Amendment. [Ord. No. 31.*

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Repeal of section *six* of Ordinance No. 54 of 1903 and substitution of new provisions.

4. Section four as amended by Ordinance No. 23, 1906, section one, has been repealed by Act No. 35, 1908, section two.

Repeal of section *ten* of Ordinance No. 54 of 1903 and substitution of new provision as to penalties not expressly provided for.

5. Section *ten* of the principal law shall be and is hereby repealed and the following provision substituted therefor:—  
*For text see Ordinance No. 54, 1903, section ten.*

Repeal of section *eleven* of Ordinance No. 54 of 1903 and substitution of new provision.

6. Section *eleven* of the principal law shall be and is hereby repealed and there shall be substituted therefor the following provisions:—

*For text see Ordinance No. 54, 1903, section eleven.*

Powers of Inspectors of Mines and Chief Inspector of Machinery to try breaches of certain Regulations.

7. (1) Every inspector of mines deputy-inspector of mines and the Chief Inspector of Machinery appointed under the principal law may try any breach of a regulation framed under such law as amended by this Ordinance unless serious bodily injury or death has been caused to any person by such breach.

(2)\* For the purposes of such trial any such officer aforesaid may summon any person as a witness in manner prescribed by regulation made by the Lieutenant-Governor and every person on whom such summons has been duly served who neglects or refuses without reasonable excuse to attend at the time and place mentioned in such summons shall be liable on conviction before a court of resident magistrate to a fine not exceeding ten pounds and in default of payment to imprisonment for a period not exceeding one month.

(3) All evidence at any such trial shall be given upon oath and every such officer aforesaid is hereby authorized to administer an oath to every witness on such trial and any person giving false evidence material on such trial shall be deemed to be guilty of perjury.

(4) Any such officer aforesaid may on finding a person guilty of a breach of a regulation which he is hereby authorized to try impose a fine not exceeding five pounds and in default of payment he shall notify the amount to the employer of such person who shall withhold the amount so notified from any wages due or to become due to such person and pay it over to such officer aforesaid for the benefit of the Colonial Treasury.

(5) At every such trial aforesaid any such officer aforesaid shall take down the evidence in writing and record his finding

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\* See Govt. Notice No. 1053 of 1905 (*Gazette*, 8/12/05).

*Mines Works and*

Ord. No. 31.] *Machinery Regulations Amendment.* [A.D. 1905.]

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and sentence in writing and forward the same to the resident magistrate of the district and an appeal shall lie to such resident magistrate against any such finding and sentence if notice thereof is given to him in writing and the decision of the resident magistrate upon such appeal shall be final.

8. Section *eight* of the principal law shall be and is hereby repealed and the following provisions substituted therefor:—

*For text see Ordinance No. 54, 1903, section eight.*

Repeal of section *eight* of Ordinance No. 54 of 1903 and substitution of new provision.

9. This Ordinance may be cited for all purposes as the Mines Works and Machinery Regulations Amendment Ordinance 1905 and it shall be read as one with the principal law.

Title.

No. 11 of 1906.] [Promulgated 17th August, 1906.]

† AN ORDINANCE

TO AMEND THE MINING CERTIFICATES ORDINANCE, 1903.

(Assented to 9th August, 1906.)

BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Amendment  
of section *one*  
of Ordinance  
No. 50 of  
1903.

1.\* Section *one* of the Mining Certificates Ordinance 1903 shall be and is hereby amended by the addition of the following words thereto—

“(f) mechanical engineers”;

and the provisions of sections *two* and *three* of the said Ordinance shall apply in respect of the said section *one* as hereby amended.

Title.

2. This Ordinance may be cited for all purposes as the Mining Certificates Amendment Ordinance 1906.

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† This Ordinance has been repealed by Act No. 32 of 1909, sec. 1, which Act, however, although amended by Act No 8 of 1910, has, with the latter, not as yet been put in force.

\* For regulations see footnote to Ord. No. 50 of 1903, sec. 1.

SOUTH AFRICA ACT.  
ZUID-AFRIKA WET.

## \* SOUTH AFRICA ACT, 1909.

## CHAPTER 9.

## AN ACT TO CONSTITUTE THE UNION OF SOUTH AFRICA.

[20th September, 1909.]

WHEREAS it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative union under the Crown of Great Britain and Ireland:

And whereas it is expedient to make provision for the union of the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony on terms and conditions to which they have agreed by resolution of their respective Parliaments, and to define the executive, legislative, and judicial powers to be exercised in the government of the Union:

And whereas it is expedient to make provision for the establishment of provinces with powers of legislation and administration in local matters and in such other matters as may be specially reserved for provincial legislation and administration:

And whereas it is expedient to provide for the eventual admission into the Union or transfer to the Union of such parts of South Africa as are not originally included therein:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows.

## PART I.

*Preliminary.*

Short title.

1. This Act may be cited as the South Africa Act, 1909.

Definitions.

2. In this Act, unless it is otherwise expressed or implied, the words "the Union" shall be taken to mean the Union of South Africa as constituted under this Act, and the words "Houses of Parliament", "House of Parliament", or "Parliament", shall be taken to mean the Parliament of the Union.

\* Published in *Gazette Extraordinary*, 22nd Dec., 1909.

## \* ZUID-AFRIKA WET, 1909.

## HOOFDSTUK 9.

## EEN WET TER DAARSTELLING VAN DE UNIE VAN ZUID-AFRIKA.

[20 September 1909.]

Nademaal het wenselijk is voor de welvaart en toekomstige vooruitgang van Zuid-Afrika dat de verschillende Britse Kolonies daarin onder één Regering tot een wetgevende unie onder de Kroon van Groot-Brittanje en Ierland verenigd worden;

En nademaal het dienstig is om voorziening te maken voor de Unie van de Kolonies de Kaap de Goede Hoop, Natal, Transvaal en de Oranje Rivier Kolonie, op de termen en voorwaarden waartoe zij overeengekomen hebben bij besluit van hun respectieve Parlementen en om de in de regering van de Unie uit te oefenen uitvoerende, wetgevende en rechterlijke machten vast te stellen;

En nademaal het dienstig is voorziening te maken voor het vestigen van provincies bekleed met wetgevende en administratieve machten in plaatselijke zaken en in zodanige andere zaken als speciaal voor provinciale wetgeving en administratie mogen worden uitgehouden;

En nademaal het dienstig is om voorziening te maken voor de eventuele toelating tot de Unie of overdracht aan de Unie van die gedeelten van Zuid-Afrika die niet oorspronkelijk daarin inbegrepen worden;

Zij het derhalve vastgesteld door Zijn Majesteit de Koning door en met het advies en konsent van de Geestelijke en Wereldlijke Pairs en het Lager Huis, in het tans vergaderde Parlement, en krachtens het gezag van deze, als volgt:—

## DEEL I.

*Inleiding.*

1. Deze Wet kan worden aangehaald als de Zuid-Afrika Wet, 1909. Korte Titel.

2. In deze Wet betekenen de woorden “de Unie”, tenzij uitdrukkelijk of stilzwijgend anders bepaald is, de Unie van Zuid-Afrika, zoals samengesteld onder deze Wet en de woorden “Huizen van het Parlement”, “Huis van Parlement” of “Parlement” zullen betekenen het Parlement van de Unie. Definities.

\* Gepubliceerd in *Buitengewone Staatskoerant* van 22 Dec. 1909; de hier gegeven tekst is door de Conventie goedgekeurd, de tekst gepubliceerd in de *Staatskoerant* wijkt totaal af van de hier gegevene.

Application of  
Act to King's  
successors.

3. The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.

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PART II.

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*The Union.*

Proclamation  
of Union.

\* 4. It shall be lawful for the King, with the advice of the Privy Council, to declare by proclamation that, on and after a date therein appointed, not being later than one year after the passing of this Act, the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony, hereinafter called the Colonies, shall be united in a legislative union under one Government under the name of the Union of South Africa. On and after the day appointed by such proclamation the Government and Parliament of the Union shall have full power and authority within the limits of the Colonies, but the King may at any time after the proclamation appoint a Governor-General for the Union.

Commence-  
ment of Act.

5. The provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

Incorporation  
of Colonies  
into the  
Union.

6. The Colonies mentioned in section *four* shall become original provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal, and Orange Free State, as the case may be. The original provinces shall have the same limits as the respective Colonies at the establishment of the Union.

Application of  
58 & 59 Vict.,  
c. 34, etc.

7. Upon any Colony entering the Union, the Colonial Boundaries Act, 1895, and every other Act applying to any of the Colonies as being self-governing Colonies or Colonies with responsible government, shall cease to apply to that Colony, but as from the date when this Act takes effect every such Act of Parliament shall apply to the Union.

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PART III.

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*Executive Government.*

Executive  
power.

8. The Executive Government of the Union is vested in the King, and shall be administered by His Majesty in person or by a Governor-General as his representative.

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\* The Union was established on and after 31st May, 1910, by Order-in-Council of 2nd Dec., 1909, published under Govt. Notice No. 250, 1910 (*Gazette*, 4/3/10).



3. De bepalingen van deze Wet, betrekkelijk de Koning, zijn van toepassing op Zijn Majesteits erfgenamen en opvolgers in de soevereiniteit van 't Verenigd Koninkrijk van Groot-Brittanje en Ierland.

Toepassing van Wet op opvolgers van Koning.

## DEEL II.

### *De Unie.*

\* 4. De Koning is bevoegd op advies van de Geheime-raad bij proklamatie af te kondigen, dat op en na een dag daarbij bepaald, niet later dan één jaar na aanneming van deze Wet, de Kolonies de Kaap de Goede Hoop, Natal, Transvaal en Oranje Rivier Kolonie, hierna genoemd de Kolonies, tot één wetgevende unie onder één Regering met de naam de Unie van Zuid-Afrika verenigd zullen worden. Op en na de dag bij die proklamatie vastgesteld, oefenen de Regering en het Parlement van de Unie binnen de grenzen van de Kolonies volle macht en gezag uit, zullende de Koning nochtans te eniger tijd na de proklamatie een Goeverneur-generaal voor de Unie kunnen aanstellen.

Proklamatie van Unie.

5. De bepalingen van deze Wet treden, tenzij uitdrukkelijk of stilzwijgend anders voorzien is, op en na de vastgestelde dag in werking.

Aanvang van Wet.

6. De in artikel vier vermelde Kolonies zullen oorspronkelijke provincies van de Unie worden onder de naam van de Kaap de Goede Hoop, Natal, Transvaal en Oranje Vrijstaat, al naar het geval moge zijn.

Inlijving van Kolonies in de Unie.

De oorspronkelijke provincies zullen dezelfde grenzen hebben als de desbetreffende Kolonies ten tijde van 't tot stand komen van de Unie.

7. Bij het intreden van enige Kolonie in de Unie zullen de Koloniale Grenzen Wet 1895, en elke andere wet die van toepassing is op enige van de Kolonies als zijnde zelfregerende Kolonies of Kolonies met verantwoordelijke regering, ophouden op die Kolonie van toepassing te zijn, maar van of de datum wanneer deze Wet in werking treedt zal elke zodanige Parlements-wet van toepassing zijn op de Unie.

Toepassing van 58 en 59, Vict., Hoofdst. 34, enz.

## DEEL III.

### *Uitvoerend Gezag.*

8. Het Uitvoerend Gezag van de Unie berust bij de Koning en wordt uitgeoefend door Zijn Majesteit in persoon, of door een Goeverneur-generaal als zijn vertegenwoordiger.

Uitvoerende Macht.

\* De Unie werd daargesteld op en van af 31 Mei 1910, door Bevel-in-Rade gedateerd 2 Dec. 1909, en gepubliceerd door Goevts. Kennisgeving 250, 1910 (*Staatskoerant*, 4/3/10).

Governor-General.

9. The Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him.

Salary of Governor-General.

10. There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum of ten thousand pounds. The salary of the Governor-General shall not be altered during his continuance in office.

Application of Act to Governor-General.

11. The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being or such person as the King may appoint to administer the government of the Union. The King may authorize the Governor-General to appoint any person to be his deputy within the Union during his temporary absence, and in that capacity to exercise for and on behalf of the Governor-General during such absence all such powers and authorities vested in the Governor-General as the Governor-General may assign to him, subject to any limitations expressed or directions given by the King; but the appointment of such deputy shall not affect the exercise by the Governor-General himself of any power or function.

Executive Council.

12. There shall be an Executive Council to advise the Governor-General in the government of the Union, and the members of the council shall be chosen and summoned by the Governor-General and sworn as executive councillors, and shall hold office during his pleasure.

Meaning of Governor-General-in-Council.

13. The provisions of this Act referring to the Governor-General-in-Council shall be construed as referring to the Governor-General acting with the advice of the Executive Council.

Appointment of ministers.

14. The Governor-General may appoint officers not exceeding ten in number to administer such departments of State of the Union as the Governor-General-in-Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council and shall be the King's Ministers of State for the Union. After the first general election of members of the House of Assembly, as hereinafter provided, no minister shall hold office for a longer period than three months unless he is or becomes a member of either House of Parliament.

9. De Goeverneur-generaal wordt door de Koning aangesteld, en zal, in de Unie, gedurende 's Konings welbehagen, doch onderworpen aan deze Wet, zodanige bevoegheden en funkties van de Koning hebben en kunnen uitoefenen als het Zijn Majesteit behaagt hem toe te wijzen.

Goeverneur-generaal.

10. Er zal aan de Koning betaalbaar zijn uit het Gekonsolideerd Inkomstefonds van de Unie als bezoldiging van de Goeverneur-generaal een jaargeld van £10,000.

Salaris van Goeverneur-generaal.

De bezoldiging van de Goeverneur-generaal wordt tijdens zijn amtsbekleding niet veranderd.

11. De bepalingen van deze Wet betreffende de Goeverneur-generaal strekken zich uit tot, en zijn van toepassing op de fungerende Goeverneur-generaal of een ieder door de Koning belast met het regeringsbeleid van de Unie. De Koning kan de Goeverneur-generaal machtigen enige persoon aan te stellen om zijn plaatsvervanger binnen de Unie te zijn tijdens zijn tijdelijke afwezigheid en om in die hoedanigheid uit te oefenen voor en namens de Goeverneur-generaal tijdens zulke afwezigheid alle zodanige de Goeverneur-generaal toevertrouwde machten en gezag als de Goeverneur-generaal hem moge toewijzen, onderworpen aan door de Koning uitgedrukte beperkingen of gegeven bevelen; maar de aanstelling van zodanige plaatsvervanger zal het uitoefenen van enige macht of funkie door de Goeverneur-generaal zelve, niet aantasten.

Toepassing van Wet op Goeverneur-generaal.

12. Er zal zijn een Uitvoerende Raad belast met de taak om de Goeverneur-generaal bij het regeringsbeleid van de Unie van raad te dienen, en de leden van de Raad worden gekozen en opgeroepen door de Goeverneur-generaal en, als Uitvoerende Raadsleden ingezworen zijnde, blijven zij in funkie gedurende zijn welbehagen.

Uitvoerende Raad.

13. De bepalingen dezer Wet betreffende de Goeverneur-generaal-in-Rade worden verstaan te bedoelen de Goeverneur-generaal handelende met advies van de Uitvoerende Raad.

Betekenis van Goeverneur-generaal-in-Rade.

14. De Goeverneur-generaal is bevoegd ambtenaren ten getale van hoogstens tien aan te stellen om zodanige staatsdepartementen van de Unie te beheren als de Goeverneur-generaal-in-Rade mocht instellen; zodanige ambtsbekleders blijven gedurende het welbehagen van de Goeverneur-generaal in funkie; zij zullen leden zijn van de Uitvoerende Raad en 's Konings Ministers van Staat voor de Unie. Na afloop van de eerste algemene verkiezing van leden van de Volksraad, zoals hierna bepaald, blijft geen Minister langer dan drie maanden in dienst, tenzij hij lid is of wordt van een van de Huizen van Parlement.

Aanstelling van Ministers

Appointment  
and removal  
of officers.

15. The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General-in-Council, unless the appointment is delegated by the Governor-General-in-Council or by this Act or by a law of Parliament to some other authority.

Transfer of  
executive  
powers to  
Governor-  
General-in-  
Council.

16. All powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor-in-Council, or in any authority of the Colony, shall, as far as the same continue in existence and are capable of being exercised after the establishment of the Union, be vested in the Governor-General or in the Governor-General-in-Council, or in the authority exercising similar powers under the Union, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be vested in some other authority.

Command of  
naval and  
military  
forces.

17. The command-in-chief of the naval and military forces within the Union is vested in the King or in the Governor-General as his representative.

Seat of  
Government.

18. Save as in section *twenty-three* excepted, Pretoria shall be the seat of Government of the Union.

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#### PART IV.

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#### *Parliament.*

Legislative  
power.

19. The legislative power of the Union shall be vested in the Parliament of the Union, herein called Parliament, which shall consist of the King, a Senate, and a House of Assembly.

Sessions of  
Parliament.

20. The Governor-General may appoint such times for holding the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the House of Assembly simultaneously, or the House of Assembly alone; provided that the Senate shall not be dissolved within a period of ten years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any senators nominated by the Governor-General-in-Council.

Summoning  
of first  
Parliament.

21. Parliament shall be summoned to meet not later than six months after the establishment of the Union.

Annual  
session of  
Parliament.

22. There shall be a session of Parliament once at least in every year, so that a period of twelve months shall

15. Uitgezonderd gevallen waarin de aanstelling òf door de Goeverneur-generaal-in-Rade òf bij deze Wet of een Parlements-wet aan een ander gezag opgedragen is, berusten de aanstelling en het ontslag van alle ambtenaren in de Staatsdienst van de Unie bij de Goeverneur-generaal-in-Rade.

Aanstelling en ontslag van ambtenaren.

16. Alle bevoegdheden en ambtsplichten, die ten tijde van 't tot stand komen van de Unie in een Kolonie bij de Goeverneur, de Goeverneur-in-Rade, of welk gezag ook in de Kolonie berustte, zullen voor zover dezelve blijven voortbestaan en na 't tot stand komen van de Unie kunnen worden uitgeoefend, berusten bij de Goeverneur-generaal, de Goeverneur-generaal-in-Rade of bij 't gezag hetwelk soortgelijke bevoegdheden in de Unie uitoefent, al naar het geval moge zijn, uitgezonderd de bevoegdheden en ambtsplichten welke bij deze Wet of een Parlements-wet aan een ander gezag zijn, of mochten worden opgedragen.

Overdracht van Uitvoerende Machten aan Goeverneur-generaal-in-Rade.

17. Het oppergezag over de zee- en landmacht in de Unie berust bij de Koning of de Goeverneur-generaal als zijn vertegenwoordiger.

Bevel van zee- en landmacht.

18. Behoudens de uitzondering van artikel twee en twintig zal Pretoria de regeringszetel van de Unie zijn.

Zetel van de Regering.

#### DEEL IV.

##### *Het Parlement.*

19. De wetgevende macht van de Unie berust bij 't Parlement van de Unie, hierin genoemd "het Parlement", samengesteld uit de Koning, een Senaat en een Volksraad.

Wetgevende Macht.

20. De Goeverneur-generaal is bevoegd naar zijn goedvinden de tijd voor 't houden van de zittingen van 't Parlement vast te stellen, en is tevens bevoegd van tijd tot tijd, bij proklamatie of anderszins, het Parlement te prorogeren, alsmede om op dezelfde wijze de Senaat en de Volksraad gelijktijdig, of de Volksraad alleen, te ontbinden; met dien verstande, dat de Senaat niet wordt ontbonden binnen een tijdperk van tien jaren na 't tot stand komen van de Unie en voorts dat de ontbinding van de Senaat geen uitwerking heeft wat betreft senatoren door de Goeverneur-generaal-in-Rade benoemd.

Zitting van Parlement.

21. Het Parlement wordt niet later dan zes maanden na 't tot stand komen van de Unie bijeengeroepen.

Bijeenroeping van eerste Parlement.

22. Er zal minstens eenmaal in ieder jaar een zitting zijn van 't Parlement, zodat geen twaalf maanden verlopen

Jaarlijkse zitting.

not intervene between the last sitting of Parliament in one session and its first sitting in the next session.

Seat of  
Legislature.

23. Capetown shall be the seat of the Legislature of the Union.

*Senate.*

Original  
constitution  
of Senate.

24. For ten years after the establishment of the Union the constitution of the Senate shall, in respect of the original provinces, be as follows:—

(i) Eight senators shall be nominated by the Governor-General-in-Council, and for each original province eight senators shall be elected in the manner hereinafter provided:

(ii) The senators to be nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance, by reason of their official experience or otherwise, with the reasonable wants and wishes of the coloured races in South Africa. If the seat of a senator so nominated shall become vacant, the Governor-General-in-Council shall nominate another person to be a senator, who shall hold his seat for ten years:

(iii) After the passing of this Act, and before the day appointed for the establishment of the Union, the Governor of each of the Colonies shall summon \* a special sitting of both Houses of the Legislature, and the two Houses sitting together as one body and presided over by the Speaker of the Legislative Assembly shall elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant, the provincial council of the province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

Subsequent  
constitution  
of Senate.

25. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made—

(i) the provisions of the last preceding section with regard to nominated senators shall continue to have effect;

\* See Proc. (Adm.) No. 27 of 1910 (*Gazette*, 18/4/10).

tussen de laatste vergadering van 't Parlement in een zitting en zijn eerste vergadering in de eerstvolgende zitting.

23. Kaapstad zal de zetel van de Wetgevende Macht van de Unie zijn.

Zetel van  
Wetgevende  
Macht.

*De Senaat.*

24. Gedurende tien jaren na 't tot stand komen van de Unie is de samenstelling van de Senaat wat betreft de oorspronkelijke provincies als volgt:—

Oorspronke-  
like  
samenstelling  
van Senaat.

(i) Acht senatoren worden door de Goeverneur-generaal-in-Rade benoemd, en voor elke oorspronkelijke provincie worden acht senatoren op de wijze hierna bepaald gekozen.

(ii) De senatoren door de Goeverneur-generaal-in-Rade benoemd, bekleden hun zetels gedurende tien jaren. De helft van hun getal wordt gekozen op grond voornamelijk van hun grondige bekendheid, uit hoofde van ambtelijke ondervinding of anderzins, met de redelijke behoeften en wensen van de kleurlingrassen in Zuid-Afrika. Bij 't openvallen van de zetel van een aldus benoemde senator stelt de Goeverneur-generaal-in-Rade een ander persoon aan als senator die gedurende tien jaren zijn zetel bekleedt.

(iii) Na aanneming van deze Wet en vóór de dag vastgesteld voor 't tot stand komen van de Unie,\* roept de Goeverneur van iedere Kolonie een buitengewone zitting van beide Huizen van de Wetgevende Macht bijeen, en de twee Huizen in verenigde vergadering onder voorzitterschap van de Speaker van de Wetgevende Vergadering verkiezen acht personen als senatoren voor de provincie. Zodanige senatoren bekleden hun zetels gedurende tien jaren. Bij 't openvallen van de zetel van een aldus gekozen senator verkiest de Provinciale Raad van de provincie waarvoor hij gekozen is, een ander persoon ter vervulling van de zetel tot het einde van het tijdperk waarvoor de persoon in wiens plaats hij gekozen is zijn zetel zou hebben bekleedt.

25. Het Parlement is bevoegd de wijze te regelen waarop de Senaat na afloop van tien jaren wordt samengesteld, en tenzij en tot zodanige regeling getroffen is—

Later  
volgende  
samenstelling  
van de  
Senaat.

(i) blijven de bepalingen van het laatstvoorafgaande artikel betrekkelijk benoemde senatoren van kracht;

\* Zie Prok. (Adm.) No. 27 van 1910 (*Staatshoerant*, 18/4/10).

- (ii) eight senators for each province shall be elected by the members of the provincial council of such province together with the members of the House of Assembly elected for such province. Such senators shall hold their seats for ten years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the provincial council of the province, together with the members of the House of Assembly elected for such province, shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General-in-Council shall make regulations for the joint election of senators prescribed in this section.

Qualification  
of senators.

26. The qualifications of a senator shall be as follows:—

He must

- (a) be not less than thirty years of age;
- (b) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;
- (c) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be;
- (d) be a British subject of European descent;
- (e) in the case of an elected senator, be the registered owner of immovable property within the Union of the value of not less than five hundred pounds over and above any special mortgages thereon.

For the purposes of this section, residence in, and property situated within, a Colony before its incorporation in the Union shall be treated as residence in and property situated within the Union.

Appointment  
and tenure of  
office of  
President.

27. The Senate shall, before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate, and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office by writing under his hand addressed to the Governor-General.



- (ii) worden acht senatoren voor iedere provincie gekozen door de leden van de Provinciale Raad van de provincie te zamen met de voor de provincie gekozen leden van de Volksraad. De senatoren voornoemd bekleden hun zetels gedurende tien jaren, tenzij de Senaat eerder ontbonden wordt. Bij 't openvallen van de zetel van een gekozen senator, verkiezen de leden van de Provinciale Raad van de provincie met de leden van de Volksraad voor de provincie gekozen, een persoon ter vervulling van de zetel tot het einde van de tijd waarvoor de persoon in wiens plaats hij gekozen is in functie gebleven zou zijn. De Goeverneur-generaal-in-Rade stelt regulaties vast voor de gezamenlike verkiezing van senatoren bij dit artikel voorgeschreven.

26. De kwalifikaties van een senator zijn als volgt:—  
Hij moet

Kwalifikaties  
van  
senatoren.

- (a) minstens dertig jaren oud zijn;
- (b) bevoegd zijn om als stemgerechtigde voor de verkiezing van leden van de Volksraad in een van de provincies geregistreerd te worden;
- (c) vijf jaren gewoond hebben binnen de grenzen van de Unie zoals bestaande ten tijde van zijn verkiezing of benoeming, al naar het geval moge zijn;
- (d) een brits onderdaan zijn van europese afstamming;
- (e) in 't geval van een gekozen senator—de geregistreerde eigenaar zijn van vastgoed in de Unie ter waarde van minstens £500 boven en behalve daarop rustende speciale verbanden.

Voor de doeleinden van dit artikel zullen woning binnen, en eigendom gelegen binnen een Kolonie vóór inlijving in de Unie geacht worden te zijn woning binnen en eigendom gelegen binnen de Unie.

27. De Senaat verkiest, alvorens over te gaan tot de afdoening van andere werkzaamheden, een senator als President van de Senaat, zullende zo dikwerf de bediening van President openvalt, de Senaat opnieuw een senator als President verkiezen.

Aanstelling  
en ambtstijd  
van  
President.

De President vervalt van zijn bediening wanneer hij ophoudt senator te zijn. Hij kan uit zijn bediening ontzet worden door een besluit van de Senaat of kan voor zijn bediening bedanken bij geschrifte gericht aan de Goeverneur-generaal.

Deputy-  
President.

28. Prior to or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

Resignation  
of senators.

29. A senator may, by writing under his hand addressed to the Governor-General, resign his seat, which thereupon shall become vacant. The Governor-General shall as soon as practicable cause steps to be taken to have the vacancy filled.

Quorum.

30. The presence of at least twelve senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Voting in  
the Senate.

31. All questions in the Senate shall be determined by a majority of votes of senators present other than the President or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

#### *House of Assembly.*

Constitution  
of House  
of Assembly.

32. The House of Assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided.

Original  
number of  
members.

33. The number of members to be elected in the original provinces at the first election and until the number is altered in accordance with the provisions of this Act shall be as follows:—

Cape of Good Hope . . . . .	Fifty-one.
Natal . . . . .	Seventeen.
Transvaal . . . . .	Thirty-six.
Orange Free State . . . . .	Seventeen.

These numbers may be increased as provided in the next succeeding section, but shall not, in the case of any original province, be diminished until the total number of members of the House of Assembly in respect of the provinces herein provided for reaches one hundred and fifty, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period.

Increase of  
number of  
members.

34. The number of members to be elected in each province, as provided in section *thirty-three*, shall be increased from time to time as may be necessary in accordance with the following provisions:—

- (i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, as ascertained at the census of nineteen hundred and four, by the total number of members of the House of Assembly as constituted at the establishment of the Union:



- (ii) In nineteen hundred and eleven, and every five years thereafter, a census of the European population of the Union shall be taken for the purposes of this Act:
- (iii) After any such census the number of European male adults in each province shall be compared with the number of European male adults as ascertained at the census of nineteen hundred and four, and, in the case of any province where an increase is shown, as compared with the census of nineteen hundred and four, equal to the quota of the Union or any multiple thereof, the number of members allotted to such province in the last preceding section shall be increased by an additional member or an additional number of members equal to such multiple, as the case may be:
- (iv) Notwithstanding anything herein contained, no additional member shall be allotted to any province until the total number of European male adults in such province exceeds the quota of the Union multiplied by the number of members allotted to such province for the time being, and thereupon additional members shall be allotted to such province in respect only of such excess:
- (v) As soon as the number of members of the House of Assembly to be elected in the original provinces in accordance with the preceding subsections reaches the total of one hundred and fifty, such total shall not be further increased unless and until Parliament otherwise provides; and subject to the provisions of the last preceding section the distribution of members among the provinces shall be such that the proportion between the number of members to be elected at any time in each province and the number of European male adults in such province, as ascertained at the last preceding census, shall as far as possible be identical throughout the Union:
- (vi) "Male adults" in this Act shall be taken to mean males of twenty-one years of age or upwards not being members of His Majesty's regular forces on full pay:

- (ii) In 1911 en vervolgens om de vijf jaren wordt ter uitvoering van deze Wet een volkstelling van de europese bevolking van de Unie gehouden.
- (iii) Na iedere zodanige volkstelling wordt het aantal europese volwassen manspersonen in elke provincie vergeleken met het aantal europese volwassen manspersonen, zoals vastgesteld bij de volkstelling van 1904. Blijkt uit een vergelijking met de volkstelling van 1904 dat in een provincie een aanwas zich voorgedaan heeft, gelijk aan de quota van de Unie of een veelvoud daarvan, dan wordt het aantal leden bij het voorgaande artikel aan zodanige provincie toegewezen respektievelik vermeerderd met een verder lid of een verder aantal leden gelijk aan 't veelvoud, al naar het geval moge zijn.
- (iv) Niettegenstaande een of ander bepaling van deze Wet, wordt geen verder lid aan een provincie toegewezen, alvorens het gezamenlijk aantal europese volwassen manspersonen in de provincie de quota van de Unie, vermenigvuldigd met het getal leden aan de provincie te dien tijde toegewezen te boven gaat, zullende alsdan verdere leden aan de provincie slechts voor zulk overschot worden toegewezen.
- (v) Bedraagt het aantal in de oorspronkelijke provincies voor de Volksraad overeenkomstig de voorgaande onder-artikels te kiezen leden honderd en vijftig, dan wordt dit getal niet vermeerderd, tenzij en tot het Parlement anders bepaalt.

Behoudens het bepaalde bij het voorgaande artikel worden de leden onder de provincies in dier voege verdeeld, dat de verhouding tussen het aantal te eniger tijd in ieder provincie te verkiezen leden en het aantal europese volwassen manspersonen in de provincie, zoals bij de laatste volkstelling vastgesteld, zover mogelijk dezelfde is in de ganse Unie.

- (vi) "Volwassen manspersonen" in deze Wet betekent manspersonen van één en twintig jaren of daarboven, niet zijnde leden van Zijn Majesteits staande krijgsmacht op vol soldij.

(vii) For the purposes of this Act the number of European male adults, as ascertained at the census of nineteen hundred and four, shall be taken to be—

For the Cape of Good Hope..	167,546
For Natal . . . . .	34,784
For the Transvaal . . . . .	106,493
For the Orange Free State ..	41,014

Qualifications  
of voters.

35. (1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall disqualify any person in the province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered in the province of the Cape of Good Hope by reason of his race or colour only, unless the Bill be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(2) No person who at the passing of any such law is registered as a voter in any province shall be removed from the register by reason only of any disqualification based on race or colour.

Application  
of existing  
qualifications.

36. Subject to the provisions of the last preceding section, the qualifications of parliamentary voters, as existing in the several Colonies at the establishment of the Union, shall be the qualifications necessary to entitle persons in the corresponding provinces to vote for the election of members of the House of Assembly: Provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

Elections.

37. (1) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relating to elections for the more numerous Houses of Parliament in such Colonies respectively, the registration of voters, the oaths or declarations to be taken by voters, returning officers, the powers and duties of such officers, the proceedings in connection with elections, election expenses, corrupt and illegal practices, the hearing of

- (vii) Ter uitvoering van deze Wet zal het aantal europese volwassen manspersonen, zoals vastgesteld bij de volkstelling van 1904, geacht worden te zijn—

Voor de Kaap de Goede Hoop..	167,546
Voor Natal .. .. .	34,784
Voor Transvaal .. .. .	106,493
Voor de Oranje Vrijstaat ..	41,014

35. (1) Het Parlement is bevoegd, bij wettelijk voorschrift, de kwalifikaties te regelen, vereist om personen het recht te geven om voor de verkiezing van leden van de Volksraad te stemmen. Een zodanige wet ontnemt niemand in de provincie van de Kaap de Goede Hoop die, ingevolge de wetten ten tijde van de totstandkoming van de Unie in de Kolonie van de Kaap de Goede Hoop van kracht als een stemgerechtigde geregistreerd is of kan worden, het recht om aldus geregistreerd te worden, in de provincie van de Kaap de Goede Hoop, uit hoofde alleen van zijn ras of kleur, tenzij het wetsontwerp door beide Huizen van Parlement in verenigde vergadering aangenomen wordt en bij de derde lezing minstens twee-derden van 't gezamenlik aantal leden van beide Huizen daarin toegestemd hebben. Een wetsontwerp aldus in verenigde vergadering aangenomen, wordt geacht behoorlik door beide Huizen van Parlement aangenomen te zijn.

Kwalifikatie van kiezers.

(2) Niemand die tijdens de aanneming van zodanige wet als kiezer in een provincie geregistreerd is, wordt van 't register geschrapt uit hoofde alleen van een dis-kwalifikatie gegrond op ras of kleur.

36. Behoudens de bepalingen van het laatstvoor-gaande artikel zijn de kwalifikaties van Parlementaire kiezers, zoals in de Kolonies bestaande ten tijde van 't tot stand komen van de Unie, de kwalifikaties vereist om personen in de overeenkomstige provincies het recht te geven om voor de verkiezing van leden van de Volksraad te stemmen; mits dat geen lid van Zijn Majesteits staande krijgsmacht op vol soldij gerechtigd zal zijn als kiezer geregistreerd te worden.

Toepassing van bestaande kwalifikaties.

37. (1) Behoudens de bepalingen van deze Wet, zijn de wetten van kracht in de Kolonies bij totstandkoming van de Unie betrekkelik verkiezingen voor de meer talrijke Huizen van Parlement in de Kolonies respek-tievelik, de registratie van kiezers, de door kiezers af te leggen eden of verklaringen, verslagdoende kiesbeambten, derzelve bevoegdheden en plichten, de verrichtingen in verband met verkiezingen, verkiezingskosten, verkeerde

Verkiezingen.

election petitions and the proceedings incident thereto, the vacating of seats of members, and the proceedings necessary for filling such vacancies, shall, *mutatis mutandis*, apply to the elections in the respective provinces of members of the House of Assembly.

(2) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the House of Assembly, all polls shall be taken on one and the same day in all the electoral divisions throughout the Union, such day to be appointed by the Governor-General-in-Council.

Commission  
for  
delimitation  
of electoral  
divisions.

38. Between the date of the passing of this Act and the date fixed for the establishment of the Union, the Governor-in-Council of each of the Colonies shall nominate a judge of any of the Supreme or High Courts of the Colonies, and the judges so nominated shall, upon acceptance by them respectively of such nomination, form a joint commission, without any further appointment, for the purpose of the first division of the provinces into electoral divisions. The High Commissioner for South Africa shall forthwith convene a meeting of such commission at such time and place in one of the Colonies as he shall fix and determine. At such meeting the Commissioners shall elect one of their number as chairman of such commission. They shall thereupon proceed with the discharge of their duties under this Act, and may appoint persons in any province to assist them or to act as assessors to the commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the commission. The commission may regulate their own procedure and may act by a majority of their number. All moneys required for the payment of the expenses of such commission before the establishment of the Union in any of the Colonies shall be provided by the Governor-in-Council of such Colony. In case of the death, resignation, or other disability of any of the Commissioners before the establishment of the Union, the Governor-in-Council of the Colony in respect of which he was nominated shall forthwith nominate another judge to fill the vacancy. After the establishment of the Union the expenses of the commission shall be defrayed by the Governor-General-in-Council, and any vacancies shall be filled by him.

Electoral  
divisions.

39. The commission shall divide each province into electoral divisions, each returning one member.



en onwettige verkiezingspraktijken, het verhoor van verkiezingspetities en daartoe betrekkelijke procedures, het openvallen van zetels van leden en de stappen vereist voor de opvulling van zulke vakatures, *mutatis mutandis*, toepasselijk op de verkiezingen in de overeenkomstige provincies van leden van de Volksraad.

(2) Niettegenstaande een tegenstrijdige bepaling in voornoemde wetten, vinden bij een algemene verkiezing van leden van de Volksraad de stemmingen in alle kiesafdelingen in de ganse Unie plaats op een en dezelfde dag. De dag wordt door de Goeverneur-generaal-in-Rade vastgesteld.

38. Tussen de datum van aanneming van deze Wet en de datum bepaald voor 't tot stand komen van de Unie benoemt de Goeverneur-in-Rade van elke Kolonie een rechter van een van de Hooggerechtshoven of Hogehoven van de Kolonies, en de aldus benoemde rechters vormen na aanneming van de benoeming zonder verdere aanstelling een Gezamenlike Kommissie, ten einde de eerste verdeling van de provincies in kiesafdelingen te bewerkstelligen. De Hoge Kommissaris van Zuid-Afrika belegt onverwijld een vergadering van deze Kommissie op een door hem nader te bepalen tijd en plaats in een van de Kolonies. Op deze vergadering verkiezen de Kommissarissen een uit hun midden als voorzitter van zodanige Kommissie. Vervolgens gaat de Kommissie over tot de vervulling van haar taak onder deze Wet, en is bevoegd in een provincie personen aan te stellen om haar behulpzaam te zijn of om als assessoren met de Kommissie of met afzonderlike leden daarvan onderzoek in te stellen betrekkelijk aangelegenheden in verband met haar taak. De Kommissie kan haar eigen procedure regelen en kan bij meerderheid van haar ledental handelen. Alle gelden tot bestrijding van de onkosten van de Kommissie vóór 't tot stand komen van de Unie in een Kolonie worden door de Goeverneur-in-Rade van de Kolonie voorzien. In geval van overlijden, bedanking of ander onvermogen van een Kommissaris vóór 't tot stand komen van de Unie, benoemt de Goeverneur-in-Rade van de Kolonie waarvoor hij benoemd werd, onverwijld een ander rechter ter vervulling van de vakature. Na totstandkoming van de Unie worden de onkosten van de Kommissie gedekt door de Goeverneur-generaal-in-Rade, die tevens voorvallende vakatures vervult.

Kommissie  
voor Grensbe-  
paling van  
Kiesafdelin-  
gen.

39. De Kommissie verdeelt ieder provincie in kiesafdelingen waarvan elk een lid verkiest.

Kiesafdelin-  
gen.

Method of  
dividing  
provinces into  
electoral  
divisions.

40. (1) For the purpose of such division as is in the last preceding section mentioned, the quota of each province shall be obtained by dividing the total number of voters in the province, as ascertained at the last registration of voters, by the number of members of the House of Assembly to be elected therein. *For new sub-sec. 1, vide sec. 22 Act 20/1946.*

(2) Each province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of sub-section (3) of this section, contain a number of voters, as nearly as may be, equal to the quota of the province.

(3) The Commissioners shall give due consideration to—

- (a) community or diversity of interests;
- (b) means of communication;
- (c) physical features;
- (d) existing electoral boundaries;
- (e) sparsity or density of population;

in such manner that, while taking the quota of voters as the basis of division, the Commissioners may, whenever they deem it necessary, depart therefrom, but in no case to any greater extent than fifteen per centum more or fifteen per centum less than the quota.

Alteration of  
electoral  
divisions.

41. As soon as may be after every quinquennial census, the Governor-General-in-Council shall appoint a commission consisting of three judges of the Supreme Court of South Africa to carry out any re-division which may have become necessary as between the different electoral divisions in each province, and to provide for the allocation of the number of members to which such province may have become entitled under the provisions of this Act. In carrying out such re-division and allocation the commission shall have the same powers and ~~proceed upon the same principles as are by this Act provided in regard to the original division.~~

Powers and  
duties of  
commission  
for delimiting  
electoral  
divisions.

42. (1) The joint commission constituted under section *thirty-eight*, and any subsequent commission appointed under the provisions of the last preceding section, shall submit to the Governor-General-in-Council—

- (a) a list of electoral divisions, with the names given to them by the commission and a description of the boundaries of every such division;
- (b) a map or maps showing the electoral divisions into which the provinces have been divided:

40. (1) Voor de verdeling vermeld in het voorgaand artikel, wordt de quota van ieder provincie verkregen door 't gezamenlik aantal kiezers in de provincie, zoals vastgesteld bij de laatste registratie van kiezers, te delen door 't aantal daarin te kiezen leden voor de Volksraad.

Methode van verdeling van provincies in kiesafdelingen.

(2) Ieder provincie wordt verdeeld in kiesafdelingen, in dier voege dat het aantal kiezers in elke afdeling, behoudens het bepaalde bij onder-artikel (3), van dit artikel zo na mogelijk gelijk staat met de quota van de provincie.

(3) De Kommissarissen nemen behoorlik in aanmerking—

- (a) gemeenschap of verschil van belangen;
- (b) middelen van verkeer;
- (c) natuurlijke kenmerken;
- (d) bestaande kiesgrenzen;
- (e) dunheid of dichtheid van bevolking;

op zodanige wijze dat, hoewel de quota van kiezers de grondslag van verdeling vormt, de Kommissarissen nochtans desvereist daarvan mogen afwijken, in geen geval echter meer dan vijftien percent boven of vijftien percent beneden de quota.

41. Zodra mogelijk na elke vijfjaarlikse volkstelling stelt de Goeverneur-generaal-in-Rade een Kommissie aan bestaande uit drie rechters van 't Hooggerechtshof van Zuid-Afrika, ten einde een herverdeling te bewerkstelligen, welke tussen de verschillende kiesafdelingen in elke provincie noodzakelik mocht zijn geworden en de toewijzing te regelen van 't aantal leden waartoe een provincie krachtens het bepaalde van deze Wet gerechtigd is. Bij 't bewerkstelligen van de herverdeling en toewijzing heeft de Kommissie ~~dezelfde bevoegdheden en gaat volgens dezelfde beginselen te werk als bij deze Wet betrekkelik de oorspronkelike verdeling voorgeschreven zijn~~.

Verandering van kiesafdelingen.

42. (1) De Gezamenlike Kommissie ingesteld ingevolge artikel acht en dertig en elke volgende Kommissie aangesteld ingevolge de bepalingen van het laatstvoor-gaande artikel legt aan de Goeverneur-generaal-in-Rade voor:—

Machten en plichten van Kommissie voor de grensbepaling van kiesafdelingen.

- (a) Een lijst van kiesafdelingen met de namen aan dezelve door de Kommissie gegeven, een beschrijving van de grenzen van elk zodanige kiesafdeling.
- (b) Een kaart of kaarten de kiesafdelingen aanwijzende, waarin de provincies verdeeld zijn geworden.

(c) such further particulars as they consider necessary.

(2) The Governor-General-in-Council may refer to the commission for its consideration any matter relating to such list or arising out of the powers or duties of the commission.

(3) The Governor-General-in-Council shall proclaim the names and boundaries of the electoral divisions as finally settled and certified by the commission, or a majority thereof, and thereafter, until there shall be a re-division, the electoral divisions as named and defined shall be the electoral divisions of the Union in the provinces.

(4) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

Date from which alteration of electoral divisions to take effect.

43. Any alteration in the number of members of the House of Assembly to be elected in the several provinces, and any re-division of the provinces into electoral divisions, shall, in respect of the election of members of the House of Assembly, come into operation at the next general election held after the completion of the re-division or of any allocation consequent upon such alteration, and not earlier.

Qualifications of members of House of Assembly.

44. The qualifications of a member of the House of Assembly shall be as follows:—

He must—

- (a) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;
- (b) have resided for five years within the limits of the Union as existing at the time when he is elected;
- (c) be a British subject of European descent.

For the purposes of this section, residence in a Colony before its incorporation in the Union shall be treated as residence in the Union.

Duration.

45. Every House of Assembly shall continue for five years from the first meeting thereof, and no longer, but may be sooner dissolved by the Governor-General.

Appointment and tenure of office of Speaker.

46. The House of Assembly shall, before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and, as often as the office of Speaker becomes vacant, the House shall again choose a member to be the Speaker. The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing under his hand addressed to the Governor-General.

(c) Zulke verdere biezonderheden als hun noodzakelijk mochten voorkamen.

(2) De Goeverneur-generaal-in-Rade kan alle aangelegenheden in verband met de lijst of taak van de Kommissie ter harer overweging verwijzen.

(3) De Goeverneur-generaal-in-Rade kondigt de namen en grenzen af van de kiesafdelingen, zoals door de Kommissie of een meerderheid daarvan finaal vastgesteld en gecertificeerd en daarna tot tijd en wijle een herverdeling plaats vindt, zijn de kiesafdelingen aldus genoemd en bepaald de kiesafdelingen van de Unie in de provincies.

(4) In geval van verschil tussen de beschrijving van de afdelingen en de kaart of kaarten voormeld, heeft de beschrijving de voorkeur.

43. Elke verandering van 't aantal leden van de Volksraad in de provincies te worden gekozen en elke herverdeling van de provincies in kiesafdelingen treden, wat betreft de verkiezing van leden van de Volksraad, in werking bij de eerstvolgende algemene verkiezing na bewerkstelling van de herverdeling of een toewijzing ingevolge zodanige verandering, en niet eerder.

Datum van af  
wanneer  
verandering  
van  
kiesafde-  
lingen van  
kracht wordt.

44. De kwalifikaties van een lid van de Volksraad zijn als volgt—

Kwalifikaties  
van  
Volksraads-  
leden.

Hij moet—

(a) bevoegd zijn als kiezer voor de verkiezing van leden van de Volksraad in een van de provincies te worden geregistreerd;

(b) vijf jaren hebben gewoond binnen de grenzen van de Unie zoals bestaande ten tijde van zijn verkiezing;

(c) een brits onderdaan zijn van europese afstamming.

Voor de doeleinden van dit artikel zal woning in een Kolonie vóór zijn inlijving in de Unie geacht worden woning in de Unie te zijn.

45. Een Volksraad blijft vijf jaren in stand van af zijn eerste vergadering en niet langer, doch kan eerder door de Goeverneur-generaal ontbonden worden.

Duur.

46. De Volksraad verkiest, alvorens over te gaan tot de afdoening van andere werkzaamheden, een lid als Speaker van de Raad. Zo dikwerf het ambt van Speaker openvalt, verkiest de Raad opnieuw een lid als Speaker. De Speaker vervalt van zijn ambt wanneer hij ophoudt lid te zijn. Hij wordt uit zijn ambt ontzet op besluit van de Raad, of hij bedankt zijn ambt of zetel bij geschrifte gericht aan de Goeverneur-generaal.

Aanstellingen  
ambtstijd van  
Voorzitter.

Deputy-Speaker.

47. Prior to or during the absence of the Speaker, the House of Assembly may choose a member to perform his duties in his absence.

Resignation of members.

48. A member may, by writing under his hand addressed to the Speaker, or, if there is no Speaker, or if the Speaker is absent from the Union, to the Governor-General, resign his seat, which shall thereupon become vacant.

Quorum.

49. The presence of at least thirty members of the House of Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

Voting in House of Assembly.

50. All questions in the House of Assembly shall be determined by a majority of votes of members present other than the Speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

#### *Both Houses of Parliament.*

Oath or affirmation of allegiance.

51. Every senator and every member of the House of Assembly shall, before taking his seat, make and subscribe before the Governor-General, or some person authorized by him, an oath or affirmation of allegiance in the following form:—

#### *Oath.*

I, *A.B.*, do swear that I will be faithful and bear true allegiance to His Majesty [*here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being*] His [*or Her*] heirs and successors according to law. So help me God.

#### *Affirmation.*

I, *A.B.*, do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty [*here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being*] His [*or Her*] heirs and successors according to law.

Member of either House disqualified for being member of the other House.

52. A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other House: Provided that every Minister of State who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the House of Assembly, but shall vote only in the House of which he is a member.

Disqualifications for being a member of either House.

53. No person shall be capable of being chosen or of sitting as a senator or as a member of the House of Assembly who

47. Vóór of tijdens de afwezigheid van de Speaker kan de Volksraad een lid kiezen ten einde diens plichten in zijn afwezen te vervullen.

Vice-voorzitter.

48. Een lid kan, bij geschrifte onder zijn hand gericht aan de Speaker of, bij ontstentenis of uitlandigheid van de Speaker, aan de Goeverneur-generaal zijn zetel bedanken die alsdan openvalt.

Bedanking van leden.

49. De tegenwoordigheid van minstens dertig leden van de Volksraad is vereist om de Raad ter uitoefening van zijn bevoegdheden voltallig te maken.

Quorum.

50. Alle kwesties in de Volksraad worden beslist bij meerderheid van stemmen van aanwezige leden, uitgezonderd de Speaker of het voorzittend lid, die echter bij staking van stemmen een beslissende stem heeft en uitbrengt.

Stemming in Volksraad.

#### BEIDE HUIZEN VAN PARLEMENT.

51. Iedere senator, alsmede ieder lid van de Volksraad legt en ondertekent, alvorens zijn zetel in te nemen, ten overstaan van de Goeverneur-generaal of een door hem gemachtigde een eed of plechtige verklaring af van getrouwheid in de volgende vorm:

Eed of plechtige verklaring van getrouwheid.

#### *Eed.*

Ik, A.B., zweer trouw en hulde aan Zijn Majesteit [*vul hier in de naam van de alsdan regerende Koning of Koningin van het Verenigd Koninkrijk van Groot-Brittanje en Ierland*] zijn [*of haar*] erfgenamen en opvolgers volgens wet. Zo helpe mij God.

#### *Plechtige Verklaring.*

Ik, A.B., verklaar plechtiglik en oprechtelik dat ik getrouw zal zijn aan Zijn Majesteit [*vul hier in de naam van de alsdan regerende Koning of Koningin van het Verenigd Koninkrijk van Groot-Brittanje en Ierland*] zijn [*of haar*] erfgenamen en opvolgers volgens wet.

52. Een lid van een Huis van Parlement is onbevoegd als lid van 't ander Huis verkozen te worden of zitting te nemen, met dien verstande dat ieder Minister van Staat die lid is van een van beide Huizen van Parlement het recht heeft om in de Senaat en de Volksraad zitting te nemen en te spreken, zullende hij echter slechts stemmen in 't Huis waarvan hij lid is.

Lid van het een Huis onbevoegd lid van het ander Huis te zijn.

53. Niemand is bevoegd als senator of als lid van de Volksraad gekozen te worden of zitting te nemen die:

Diskwalifikaties voor lid zijn van het een of ander Huis.

- (a) has been at any time convicted of any crime or offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election; or
- (b) is an unrehabilitated insolvent; or
- (c) is of unsound mind, and has been so declared by a competent court; or
- (d) holds any office of profit under the Crown within the Union: Provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this sub-section:
- (1) a Minister of State for the Union;
  - (2) a person in receipt of a pension from the Crown;
  - (3) an officer or member of His Majesty's naval or military forces on retired or half-pay, or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union.

Vacation of seats.

54. If a senator or member of the House of Assembly

- (a) becomes subject to any of the disabilities mentioned in the last preceding section; or
- (b) ceases to be qualified as required by law; or
- (c) fails for a whole ordinary session to attend without the special leave of the Senate or the House of Assembly, as the case may be (for his seat shall thereupon become vacant.

Penalty for sitting or voting when disqualified.

55. If any person who is by law incapable of sitting as a senator or member of the House of Assembly shall, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the Senate or the House of Assembly, he shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote, to be recovered on behalf of the Treasury of the Union by action in any Superior Court of the Union.

Allowances of members.

56. Each senator and each member of the House of Assembly shall, under such rules as shall be framed by Parliament, receive an allowance of four hundred pounds a year, to be reckoned from the date on which he takes his seat: Provided that for every day of the session on which he is absent there shall be deducted from such allowance



- (a) te eniger tijd veroordeeld werd wegens enige misdaad of misdrijf, waarvoor hij zonder de keuze van een boete gestraft werd met gevangenisstraf van minstens twaalf maanden, tenzij hij kwijtschelding van straf of vrije begenadiging ontvangen heeft of de tijd van zijn gevangenisstraf minstens vijf jaren vóór de datum van zijn verkiezing verstreken is, of
- (b) een ongerehabiliteerde insolvent is, of
- (c) krankzinnig is en als zodanig door een bevoegd Hof verklaard is, of
- (d) een winstbetrekking onder de Kroon in de Unie bekleedt; met dien verstande dat de navolgende personen in de zin van dit onder-artikel geen winstbetrekking onder de Kroon bekleden
  - (1) een Minister van Staat voor de Unie,
  - (2) iemand in 't genot van een pensioen van de Kroon,
  - (3) Een officier of lid van Zijn Majesteits zee- of landmacht op wachtgeld of halve bezoldiging of een officier of lid van de zee- of landmacht van de Unie, die niet uitsluitend in dienst is van de Unie.

54. Een senator of lid van de Volksraad of

- (a) onderhevig wordt aan een van de onbevoegdheden vermeld in het laatstvoorgaande artikel; of
- (b) ophoudt wettelijk bevoegd te zijn; of
- (c) gedurende een gehele gewone zitting wegblijft zonder uitdrukkelijke vergunning van de Senaat of de Volksraad respectievelijk

Openvallen  
van ambten

vervalt van zijn bediening.

55. Een ieder die wettelijk onbevoegd is als senator of lid van de Volksraad zitting te nemen, niettemin, wetende of redelijke gronden hebbende om te weten dat hij aldus onbevoegd is, tijdens zijn onbevoegdheid zitting neemt of stemt als lid van de Senaat of de Volksraad, wordt gestraft met geldboete van één honderd pond voor elke dag waarop hij aldus zitting neemt of stemt, te worden verhaald namens de schatkist van de Unie bij proces in een van de Hogere Hoven van de Unie.

Strafbepaling  
wegens  
zitting nemen  
of stemmen  
wanneer  
onbevoegd.

56. Ieder senator en ieder lid van de Volksraad ontvangt, ingaande op de dag waarop hij zitting neemt, overeenkomstig nader door 't Parlement vast te stellen regulaties, een som van vier honderd pond in 't jaar als toelage, met dien verstande dat voor elke zittingsdag waarop hij afwezig is, het bedrag van drie ponden van

Toelagen  
van leden.

the sum of three pounds: Provided further that no such allowance shall be paid to a Minister receiving a salary under the Crown or to the President of the Senate or the Speaker of the House of Assembly. A day of the session shall mean in respect of a member any day during a session on which the House of which he is a member or any committee of which he is a member meets.

Privileges of  
Houses of  
Parliament.

57. The powers, privileges, and immunities of the Senate and of the House of Assembly and of the members and committees of each House shall, subject to the provisions of this Act, be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

Rules of  
Procedure.

58. Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply to the Senate and House of Assembly respectively. If a joint sitting of both Houses of Parliament is required under the provisions of this Act, it shall be convened by the Governor-General by message to both Houses. At any such joint sitting the Speaker of the House of Assembly shall preside and the rules of the House of Assembly shall, as far as practicable, apply.

#### *Powers of Parliament.*

Powers of  
Parliament.

59. Parliament shall have full power to make laws for the peace, order, and good government of the Union.

Money Bills.

60. (1) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly. But a Bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

(2) The Senate may not amend any Bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

(3) The Senate may not amend any Bills so as to increase any proposed charges or burden on the people.

Appropriation  
Bills.

61. Any Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

zodanig bedrag afgetrokken wordt; mits verder dat geen zodanige toelage betaald wordt aan een Minister die een bezoldiging onder de Kroon ontvangt of aan de President van de Senaat of aan de Speaker van de Volksraad. Zittingsdag betekent, wat betreft een lid, een dag in de loop van de zitting waarop het Huis, of een komitee, waarvan hij lid is vergadert.

57. De bevoegdheden, voorrechten en vrijdommen van de Senaat en van de Volksraad alsmede van de leden en komitees van ieder Huis worden, behoudens het bepaalde bij deze Wet, door 't Parlement vastgesteld, en hangende de vaststelling daarvan gelden die van de Wetgevende Vergadering van de Kaap de Goede Hoop en van haar leden en komitees ten tijde van 't tot stand komen van de Unie.

Voorrechten van Kamers van het Parlement.

58. Ieder Huis van Parlement is bevoegd een reglement vast te stellen voor de orde en leiding van zijn werkzaamheden en verrichtingen. Hangende de vaststelling van 't reglement zijn de reglementen van de Wetgevende Raad en de Wetgevende Vergadering van de Kaap de Goede Hoop ten tijde van 't tot stand komen van de Unie *mutatis mutandis* van toepassing op de Senaat en de Volksraad. Wanneer een verenigde vergadering van beide Huizen van Parlement ingevolge de bepalingen van deze Wet vereist is, wordt zij belegd door de Goeverneur-generaal bij boodschap aan beide Huizen. De Speaker van de Volksraad heeft de leiding van de verenigde vergadering, zullende het reglement van de Volksraad zover doenlik van toepassing zijn.

Reglement van Orde.

#### MACHT VAN 'T PARLEMENT.

59. Het Parlement heeft volle macht om wetten te maken voor de vrede, orde en goede regering van de Unie

Macht van het Parlement

60. (1) Wetsontwerpen, die inkomsten, of gelden beschikbaar stellen of een belasting opleggen, worden slechts in de Volksraad aanhangig gemaakt. Een wetsontwerp wordt niet geacht inkomsten of gelden beschikbaar te stellen of een belasting op te leggen, uit hoofde alleen dat het bepalingen bevat regelende de oplegging van, of beschikbaarstelling van boeten of andere geldstraffen.

Geldelijke Wetsontwerpen

(2) De Senaat kan geen wetsontwerpen wijzigen, voorzover zij ten behoeve van de Staatsdienst een belasting opleggen of inkomsten beschikbaar stellen.

(3) De Senaat kan geen wetsontwerp in dier voege wijzigen dat een voorgestelde heffing of belasting op het volk verhoogd wordt.

61. Een wetsontwerp dat inkomsten of gelden voor de gewone jaarlijkse Staatsdienst beschikbaar stelt, bepaalt zich tot zodanige beschikbaarstelling.

Toeëigening Wetsontwerpen.

Recom-  
mendation of  
money votes.

62. The House of Assembly shall not originate or pass any vote, resolution, address, or Bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by message from the Governor-General during the session in which such vote, resolution, address, or Bill is proposed.

Disagree-  
ments  
between the  
two Houses.

63. If the House of Assembly passes any Bill and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next session again passes the Bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate and shall vote together upon the Bill as last proposed by the House of Assembly and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament: Provided that, if the Senate shall reject or fail to pass any Bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such Bill.

Royal Assent  
to Bills.

64. When a Bill is presented to the Governor-General for the King's Assent, he shall declare according to his discretion, but subject to the provisions of this Act, and to such instructions as may from time to time be given in that behalf by the King, that he assents in the King's name, or that he withholds assent, or that he reserves the Bill for the signification of the King's pleasure. All Bills repealing or amending this section or any of the provisions of Chapter IV under the heading "House of Assembly",

62. Door de Volksraad wordt geen begrotingspost, besluit, adres of wetsontwerp strekkende tot beschikbaarstelling van enig gedeelte van Staatsgelden of van een belasting of heffing, voor welk doel ook, aanhangig gemaakt of aangenomen, tenzij de beschikbaarstelling aanbevolen wordt bij boodschap van de Goeverneur-generaal gedurende de zitting waarin de begrotingspost, het besluit, adres of wetsontwerp ingediend is.

Aanbeveling  
van ~~de~~  
begroting.

63. Wordt een door de Volksraad aangenomen wetsontwerp door de Senaat verworpen of niet aangenomen of met amendementen aangenomen, welke de Volksraad afkeurt, en wordt het wetsontwerp in de volgende zitting opnieuw door de Volksraad met of zonder amendementen aangenomen, welke door de Senaat gemaakt of goedgekeurd zijn, en hetzelfde wordt door de Senaat verworpen of niet aangenomen of met amendementen aangenomen, welke de Volksraad afkeurt, alsdan is de Goeverneur-generaal bevoegd gedurende die zitting een verenigde vergadering van de leden van de Senaat en van de Volksraad te beleggen. De leden ter verenigde vergadering aanwezig, kunnen te zamen beraadslagen en stemmen te zamen over het wetsontwerp zoals laatstelijk door de Volksraad voorgesteld, alsmede over amendementen door een Huis van Parlement daarin aangebracht en niet door 't ander goedgekeurd. De amendementen, mits bekrachtigd door een meerderheid van 't gezamenlijk aantal leden van de Senaat en de Volksraad ter vergadering aanwezig, worden geacht goedgekeurd te zijn. Het wetsontwerp met de amendementen, indien enige, mits bekrachtigd door een meerderheid van de leden van de Senaat en de Volksraad ter vergadering aanwezig, wordt geacht behoorlijk door beide Huizen van Parlement aangenomen te zijn; mits dat indien de Senaat een wetsontwerp tot beschikbaarstelling van inkomsten of gelden ten behoeve van de Staatsdienst verwerpt of niet aanneemt, kan de verenigde vergadering in dezelfde zitting belegd worden, waarin de Senaat het wetsontwerp verwerpt of niet aanneemt.

Geschillen  
tussen de  
twee Huizen.

64. Wanneer een wetsontwerp aan de Goeverneur-generaal voor 's Konings toestemming aangeboden wordt, verklaart hij, naar zijn goedvinden, behoudens echter het bepaalde bij deze Wet, en zodanige instruktie als te dien opzichte van tijd tot tijd door de Koning moge gegeven worden, dat hij namens de Koning toestemming verleent, of dat hij weigert, of dat hij het wetsontwerp aanhoudt ter inwinning van 's Konings behagen. Alle wetsontwerpen die dit artikel of enige van de bepalingen van Hoofdstuk IV onder de titel "Volksraad" herroepen of wijzigen en alle

Koninklijke  
goedkeuring  
van Wetsont-  
werpen.

and all Bills abolishing provincial councils or abridging the powers conferred on provincial councils under section *eighty-five*, otherwise than in accordance with the provisions of that section, shall be so reserved. The Governor-General may return to the House in which it originated any Bill so presented to him, and may transmit therewith any amendments which he may recommend, and the House may deal with the recommendation.

Disallowance  
of Bills.

65. The King may disallow any law within one year after it has been assented to by the Governor-General, and such disallowance, on being made known by the Governor-General by speech or message to each of the Houses of Parliament or by proclamation, shall annul the law from the day when the disallowance is so made known.

Reservation  
of Bills.

66. A Bill reserved for the King's pleasure shall not have any force unless and until, within one year from the day on which it was presented to the Governor-General for the King's Assent, the Governor-General makes known by speech or message to each of the Houses of Parliament or by proclamation that it has received the King's Assent.

Signature and  
enrolment  
of Acts.

67. As soon as may be after any law shall have been assented to in the King's name by the Governor-General, or having been reserved for the King's pleasure shall have received his assent, the Clerk of the House of Assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

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PART V.

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*The Provinces.*

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*Administrators.*

Appointment  
and tenure of  
office of  
provincial  
administrators.

68. (1) In each province there shall be a chief executive officer appointed by the Governor-General-in-Council, who shall be styled the administrator of the province, and in whose name all executive acts relating to provincial affairs therein shall be done.

wetsontwerpen die provinciale raden afschaffen, of die de aan de provinciale raden krachtens artikel *vijf en tachtig* verleende machten verkorten, op andere wijze dan overeenkomstig de bepalingen van dat artikel, zullen aldus aangehouden worden. De Goeverneur-generaal is bevoegd een hem aldus aangeboden wetsontwerp terug te zenden aan 't Huis waarin het aanhangig was, vergezeld gaande van amendementen welke hij ter overweging mocht voorstellen, zullende het Huis dezelve in behandeling kunnen nemen.

65. De Koning is bevoegd binnen een jaar na verlening van de toestemming door de Goeverneur-generaal een wet te ontzeggen en zodanige ontzegging, na door de Goeverneur-generaal bij aanspraak of boodschap aan ieder Huis van Parlement of bij proklamatie bekend te zijn gemaakt, stelt de wet buiten werking ingaande op de dag waarop de ontzegging bekend gemaakt is.

Niet bekrachtigen van Wetten.

66. Een voor 's Konings behagen aangehouden wetsontwerp treedt niet in werking, tenzij en tot de Goeverneur-generaal binnen een jaar van af de dag waarop het aan hem voor 's Konings toestemming aangeboden werd, bij aanspraak of boodschap aan ieder Huis van Parlement of bij proklamatie bekend maakt, dat 's Koning toestemming verleend is.

Reservatie van Wetsontwerpen.

67. Zodra mogelijk nadat namens de Koning door de Goeverneur-generaal toestemming tot een wet verleend is of dezelve, voor 's Konings behagen aangehouden zijnde, zijn toestemming ontvangen heeft, doet de Klerk van de Volksraad twee afschriften in 't net van de wet, het een in de engelse het ander in de hollandse taal, en waarvan een door de Goeverneur-generaal getekend is, ten kantore van de Registrateur van de Afdeling van Appèl van 't Hooggerechtshof van Zuid-Afrika registreren; en zodanige afschriften leveren volledig bewijs op ten opzichte van de bepalingen van de wet en in geval van verschil tussen de twee gedeponeerde afschriften heeft het door de Goeverneur-generaal getekende de voorkeur.

Tekening en registratie van wetten.

## DEEL V.

### *De Provincies.*

#### *Administrateurs.*

68. (1) Er zal in iedere provincie zijn een hoofdvoerende ambtenaar, door de Goeverneur-generaal-in-Rade aangesteld onder de benaming van "Administrateur van de Provincie", in wiens naam alle uitvoerende handelingen betrekkelijk de provinciale huishouding geschieden.

Aanstelling en ambtstijd van Provinciale Administrateurs.

(2) In the appointment of the administrator of any province, the Governor-General-in-Council shall, as far as practicable, give preference to persons resident in such province.

(3) Such administrator shall hold office for a term of five years and shall not be removed before the expiration thereof except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(4) The Governor-General-in-Council may from time to time appoint a deputy-administrator to execute the office and functions of the administrator during his absence, illness, or other inability.

Salaries of administrators.

69. The salaries of the administrators shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

#### *Provincial Councils.*

Constitution of provincial councils.

70. (1) There shall be a provincial council in each province consisting of the same number of members as are elected in the province for the House of Assembly: Provided that, in any province whose representatives in the House of Assembly shall be less than twenty-five in number, the provincial council shall consist of twenty-five members.

(2) Any person qualified to vote for the election of members of the provincial council shall be qualified to be a member of such council.

Qualification of provincial councillors.

71. (1) The members of the provincial council shall be elected by the persons qualified to vote for the election of members of the House of Assembly in the province voting in the same electoral divisions as are delimited for the election of members of the House of Assembly: Provided that, in any province in which less than twenty-five members are elected to the House of Assembly, the delimitation of the electoral divisions, and any necessary re-allocation of members or adjustment of electoral divisions, shall be effected by the same commission and on the same principles as are prescribed in regard to the electoral divisions for the House of Assembly.

(2) Any alteration in the number of members of the provincial council, and any re-division of the province into electoral divisions, shall come into operation at the



(2) Bij 't aanstellen van de Administrateur van een provincie geeft de Goeverneur-generaal-in-Rade, zover doenlik, de voorkeur aan ingezetenen van de provincie.

(3) De Administrateur bekleedt zijn ambt gedurende vijf jaren en kan vóór afloop daarvan niet daaruit ontzet worden, tenzij door de Goeverneur-generaal-in-Rade onder opgave van redenen, die bij boodschap binnen een week na zijn ontslag aan beide Huizen van Parlement medege-deeld worden, wanneer het Parlement te dien tijde in zitting is, of, zo niet, binnen een week na de aanvang van de eerstvolgende zitting.

(4) De Goeverneur-generaal-in-Rade is bevoegd van tijd tot tijd een waarnemend Administrateur aan te stellen om de ambtsplichten van de Administrateur tijdens zijn afwezigheid, ziekte of ander onvermogen te vervullen.

69. De bezoldiging van de Administrateurs wordt door 't Parlement vastgesteld en voorzien en wordt gedurende hun ambtstijd niet verminderd. Salarissen van Administrateurs.

#### PROVINCIALE RADEN.

70. (1) Er zal in ieder provincie zijn een Provinciale Raad bestaande uit hetzelfde aantal leden als in de provincie voor de Volksraad gekozen wordt, mits in een provincie waarvan het aantal vertegenwoordigers in de Volksraad minder is dan vijf en twintig, de Provinciale Raad uit vijf en twintig leden zal bestaan. Konstitutie van Provinciale Raden.

(2) Enig persoon bevoegd om voor de verkiezing van provinciale raadsleden te stemmen zal bevoegd zijn lid van zodanige Raad te zijn.

71. (1) De leden van de Provinciale Raad worden gekozen door de stemgerechtigden voor de verkiezing van leden van de Volksraad in de provincie, stemmende in dezelfde kiesafdelingen welke voor de verkiezing van leden van de Volksraad afgebakend zijn, met dien verstande dat in een provincie waar minder dan vijf en twintig leden voor de Volksraad gekozen worden, de afbakening van de kiesafdelingen en, zo nodig, de hertoe-wijzing van leden of herregeling van de kiesafdelingen geschiedt door dezelfde Komissie volgens dezelfde beginselen die ten aanzien van de kiesafdelingen voor de Volksraad voorgeschreven zijn. Kwalifikatie van provinciale raadsleden.

(2) Een verandering van 't getal leden van de Provinciale Raad alsmede een herverdeling van de provincie in kiesafdelingen treedt in werking bij de eerstvolgende

next general election for such council held after the completion of such re-division, or of any allocation consequent upon such alteration, and not earlier.

(3) The election shall take place at such times as the administrator shall by proclamation direct, and the provisions of section *thirty-seven* applicable to the election of members of the House of Assembly shall *mutatis mutandis* apply to such elections.

Application of sections *fifty-three* to *fifty-five* to provincial councillors.

72. The provisions of sections *fifty-three*, *fifty-four*, and *fifty-five*, relative to members of the House of Assembly, shall *mutatis mutandis* apply to members of a provincial council who shall become a member of either House of Parliament shall thereupon cease to be a member of such provincial council.

Tenure of office by provincial councillors.

73. Each provincial council shall continue for three years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

Sessions of provincial councils.

74. The administrator of each province shall by proclamation fix such times for holding the sessions of the provincial council as he may think fit, and may from time to time prorogue such council: Provided that there shall be a session of every provincial council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the council in one session and its first sitting in the next session.

Chairman of provincial councils.

75. The provincial council shall elect from among its members a chairman, and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the administrator to the Governor-General, and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof in writing addressed to the administrator.

Allowances of provincial councillors.

76. The members of the provincial council shall receive such allowances as shall be determined by the Governor-General-in-Council.

Freedom of speech in provincial councils.

77. There shall be freedom of speech in the provincial council, and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such council.

#### *Executive Committees.*

Provincial executive committees.

78. (1) Each provincial council shall at its first meeting after any general election elect from among its members, or otherwise, four persons to form with the administrator, who shall be chairman, an executive committee for the province. The members of the executive

verkiezing van de Raad gehouden na bewerkstelling van de herverdeling of van een toewijzing ten gevolge van zodanige verandering en niet eerder.

(3) De verkiezing wordt op een door de Administrateur bij proklamatie nader te bepalen tijd gehouden; en het bij artikel *zeven en dertig* bepaalde betreffende de verkiezingen van leden van de Volksraad is *mutatis mutandis* op zodanige verkiezingen van toepassing.

72. Het bepaalde bij artikels *drie en vijftig*, *vier en vijftig* en *vijf en vijftig* betrekkelijk leden van de Volksraad is *mutatis mutandis* van toepassing op leden van Provinciale Raden; met dien verstande dat een lid van een Provinciale Raad die lid wordt van een Huis van Parlement ophoudt lid te zijn van de Provinciale Raad.

Toepassing van artikels *drie en vijftig* tot *vijf en vijftig* op provinciale raadsleden.

73. Ieder Provinciale Raad blijft in stand gedurende drie jaren van de datum van zijn eerste vergadering, zullende dezelve slechts door tijdsverloop ontbindbaar zijn.

Ambtstijd van provinciale raadsleden.

74. De Administrateur van ieder provincie stelt bij proklamatie naar zijn goedvinden de tijd vast voor 't houden van de zittingen van de Provinciale Raad en kan van tijd tot tijd de Raad prorogeren; mits dat er minstens éénmaal in 't jaar een zitting zijn zal van ieder Provinciale Raad, zodat een tijdperk van twaalf maanden niet verstrijkt tussen de laatste vergadering van de Rade in een zitting en zijn eerste vergadering in de eerstvolgende zitting.

Zittingen van Provinciale Raden.

75. De Provinciale Raad verkiest uit zijn midden een Voorzitter en is bevoegd regels vast te stellen voor 't leiden van zijn verrichtingen. De regels worden door de Administrateur aan de Goeverneur-generaal gezonden en hebben verbindende kracht, tenzij en tot de Goeverneur-generaal-in-Rade zijn afkeuring daarvan te kennen geeft bij geschrifte gericht aan de Administrateur.

Voorzitter van Provinciale Raden.

76. De leden van de Provinciale Raad genieten nader door de Goeverneur-generaal-in-Rade vast te stellen toelagen.

Toelagen van provinciale raadsleden.

77. Er zal zijn vrijheid van spreken in de Provinciale Raad. Geen lid wordt ter zake van hetgeen hij in de Raad gezegd en de wijze waarop hij zijn stem uitgebracht heeft, in rechten aangesproken.

Vrijheid van spreken in Provinciale Raad.

#### UITVOERENDE KOMITEES.

78. (1) Ieder Provinciale Raad verkiest op zijn eerste vergadering na afloop van de algemene verkiezing, uit zijn midden of anderzins, vier personen om met en onder voorzitterschap van de Administrateur, een Uitvoerend Komitee voor de provincie te vormen.

Provinciale Uitvoerend Komitees.

committee other than the administrator shall hold office until the election of their successors in the same manner.

(2) Such members shall receive such remuneration as the provincial council, with the approval of the Governor-General-in-Council, shall determine.

(3) A member of the provincial council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the executive committee. *and - - .*

(4) Any casual vacancy arising in the executive committee shall be filled by election by the provincial council if then in session, or, if the council is not in session, by a person appointed by the executive committee to hold office temporarily pending an election by the council.

Right of administrator, etc., to take part in proceedings of provincial council.

79. The administrator and any other member of the executive committee of a province, not being a member of the provincial council, shall have the right to take part in the proceedings of the council, but shall not have the right to vote.

Powers of provincial executive committees.

80. The executive committee shall on behalf of the provincial council carry on the administration of provincial affairs. Until the first election of members to serve on the executive committee, such administration shall be carried on by the administrator. Whenever there are not sufficient members of the executive committee to form a quorum according to the rules of the committee, the administrator shall, as soon as practicable, convene a meeting of the provincial council for the purpose of electing members to fill the vacancies, and until such election the administrator shall carry on the administration of provincial affairs.

Transfer of powers to provincial executive committees.

81. Subject to the provisions of this Act, all powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor or the Governor-in-Council, or any Minister of the Colony, shall after such establishment be vested in the executive committee of the province so far as such powers, authorities, and functions relate to matters in respect of which the provincial council is competent to make ordinances.

Voting in executive committees.

82. Questions arising in the executive committee shall be determined by a majority of votes of the members present, and, in case of an equality of votes, the administrator shall have also a casting vote. Subject to the

De leden van 't Uitvoerend Komitee, uitgezonderd de Administrateur, bekleden hun bediening tot tijd en wijle hun opvolgers op dezelfde wijze gekozen zijn.

(2) De leden ontvangen een door de Provinciale Raad onder goedkeuring van de Goeverneur-generaal-in-Rade nader vast te stellen toelage.

(3) Een lid van de Provinciale Raad vervalt niet van zijn zetel uit hoofde dat hij als lid van 't Uitvoerend Komitee gekozen is.

(4) Tussentijdse vakatures in 't Uitvoerend Komitee worden door de Provinciale Raad bij verkiezing vervuld wanner dezelve te dien tijde in zitting is of, dezelve niet in zitting zijnde, door een door 't Uitvoerend Komitee aangesteld persoon die tijdelik dienst doet hangende een verkiezing door de Raad.

79. De Administrateur, alsmede ieder lid van 't Uitvoerend Komitee van een provincie, dat geen lid is van de Provinciale Raad, is bevoegd aan de verrichtingen van de Raad deel te nemen, doch heeft geen stem.

Recht van Administrateur, enz., om deel te nemen in verhandelingen van Provinciale Raad.

80. Het Uitvoerend Komitee heeft, in naam van de Provinciale Raad, het beheer van de provinciale huishouding. Hangende de eerste verkiezing van leden van 't Uitvoerend Komitee wordt het beheer door de Administrateur gevoerd. Ontbreekt een voldoende aantal leden om overeenkomstig de regels van 't Komitee een quorum te vormen, alsdan belegt de Administrateur, zodra doenlik, een vergadering van de Provinciale Raad voor 't verkiezen van leden ter aanvulling der vakatures, zullende middelerwijl de Administrateur het beheer van de provinciale huishouding hebben.

Machten van Provinciale Uitvoerende Komitees.

Behoudens het bepaalde bij deze Wet, berusten alle bevoegdheden en ambtsplichten, welke ten tijde van 't tot stand komen van de Unie in een van de Kolonies berusten bij of uitgeoefend werden door de Goeverneur-generaal-in-Rade of een Minister van een Kolonie, na totstandkoming van de Unie bij 't Uitvoerend Komitee van de provincie, voorzover de bevoegdheden en ambtsplichten betrekking hebben op aangelegenheden ten opzichte waarvan een Provinciale Raad bevoegd is ordonnanties te maken.

Overdracht van machten aan Provinciale Uitvoerende Komitees

82. Alle kwesties in 't Uitvoerend Komitee worden beslist bij meerderheid van stemmen van de aanwezige leden, zullende bij staking van stemmen de Administrateur tevens een beslissende stem hebben. Het Uitvoerend

Stemmen in Uitvoerende Komitees.

approval of the Governor-General-in-Council, the executive committee may make rules for the conduct of its proceedings.

Tenure of office by members of executive committees.

83. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers, the executive committee shall have power to appoint such officers as may be necessary, in addition to officers assigned to the province by the Governor-General-in-Council under the provisions of this Act, to carry out the services entrusted to them and to make and enforce regulations for the organisation and discipline of such officers.

Power of administrator to act on behalf of Governor-General-in-Council.

84. In regard to all matters in respect of which no powers are reserved or delegated to the provincial council, the administrator shall act on behalf of the Governor-General-in-Council when required to do so, and in such matters the administrator may act without reference to the other members of the executive committee.

#### *Powers of Provincial Councils.*

Powers of provincial councils.

85. Subject to the provisions of this Act and the assent of the Governor-General-in-Council as hereinafter provided, the provincial council may make ordinances in relation to matters coming within the following classes of subjects (that is to say):—

- (i) Direct taxation within the province in order to raise a revenue for provincial purposes:
- (ii) The borrowing of money on the sole credit of the province with the consent of the Governor-General-in-Council and in accordance with regulations to be framed by Parliament:
- (iii) Education, other than higher education, for a period of five years and thereafter until Parliament otherwise provides:
- (iv) Agriculture to the extent and subject to the conditions to be defined by Parliament:
- (v) The establishment, maintenance, and management of hospitals and charitable institutions:
- (vi) Municipal institutions, divisional councils, and other local institutions of a similar nature:
- (vii) Local works and undertakings within the province, other than railways and harbours

Komitee is bevoegd, onder nadere goedkeuring van de Goeverneur-generaal-in-Rade, regels vast te stellen voor de leiding van zijn verrichtingen.

83. Behoudens de bepalingen van een door 't Parlement aangenomen wet regelende de voorwaarden van aanstelling, dienstdtijd, aftreding en superannuatie van Staatsbeambten, is het Uitvoerend Komitee bevoegd boven en behalve de ambtenaren door de Goeverneur-generaal-in-Rade krachtens het bepaalde bij deze Wet aan de provincie toegewezen, ter behartiging van de werkring aan hetzelfde toevertrouwd, verçere benodigde ambtenaren aan te stellen, en regulaties voor de organisatie en tucht van zodanige ambtenaren vast te stellen en te handhaven.

Ambtstijd  
van leden van  
Uitvoerend  
Komitee.

84. Alle aangelegenheden niet aan de Provinciale Raad voorbehouden of opgedragen, worden desverzocht door de Administrateur namens de Goeverneur-generaal-in-Rade behandeld, en in zulke aangelegenheden handelt de Administrateur zonder nader overleg met de andere leden van 't Uitvoerend Komitee.

Machten van  
Administra-  
teur om ten  
behoef van  
de  
Goeverneur-  
generaal-in-  
Rade te  
handelen.

#### MACHT VAN PROVINCIALE RADEN.

85. Behoudens het bepaalde bij deze Wet en de toestemming van de Goeverneur-generaal-in-Rade, zoals hierna omschreven, is de Provinciale Raad bevoegd ordonanties te maken rakende de volgende klassen van onderwerpen, t.w. :—

Machten van  
Provinciale  
Raden.

- (i) Direkte belastingen in de provincie ter verkrijging van inkomsten voor de provinciale huishouding.
- (ii) Geldleningen op het enkel krediet van de provincie, met toestemming van de Goeverneur-generaal-in-Rade en overeenkomstig nader door 't Parlement vast te stellen regulaties.
- (iii) Onderwijs, uitgezonderd hoger onderwijs, voor vijf jaren en daarna tot het Parlement anders bepaalt.
- (iv) Landbouw, in de omvang en onder voorwaarden nader door 't Parlement te worden geregeld.
- (v) De oprichting, instandhouding, en het beheer van hospitalen en inrichtingen van liefdadigheid.
- (vi) Municipale instellingen, afdelingsraden, en andere plaatselijke inrichtingen van soortgelijke aard.
- (vii) Plaatselijke werken en ondernemingen in de provincie, uitgezonderd spoorwegen, havens en

and other than such works as extend beyond the borders of the province, and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the provincial council or otherwise:

- (viii) Roads, outspans, ponts, and bridges, other than bridges connecting two provinces:
- (ix) Markets and pounds:
- (x) Fish and game preservation:
- (xi) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section:
- (xii) Generally all matters which, in the opinion of the Governor-General-in-Council, are of a merely local or private nature in the province:
- (xiii) All other subjects in respect of which Parliament shall by any law delegate the power of making ordinances to the provincial council.

Effect of provincial ordinances.

86. Any ordinance made by a provincial council shall have effect in and for the province as long and as far only as it is not repugnant to any Act of Parliament.

Recommendations to Parliament.

87. A provincial council may recommend to Parliament the passing of any law relating to any matter in respect of which such council is not competent to make ordinances.

Power to deal with matters proper to be dealt with by private Bill legislation.

88. In regard to any matter which requires to be dealt with by means of a private Act of Parliament, the provincial council of the province to which the matter relates may, subject to such procedure as shall be laid down by Parliament, take evidence by means of a Select Committee or otherwise for and against the passing of such law, and, upon receipt of a report from such council, together with the evidence upon which it is founded, Parliament may pass such Act without further evidence being taken in support thereof.

Constitution of provincial revenue fund

89. A provincial revenue fund shall be formed in every province, into which shall be paid all revenues raised by or accruing to the provincial council and all moneys paid over by the Governor-General-in-Council to the provincial council. Such fund shall be appropriated by the provincial council by ordinance for the purposes of



werken die zich uitstrekken over de grenzen van de provincie en behoudens de bevoegdheid van 't Parlement een werk een nationaal werk te verklaren en in overleg met de Provinciale Raad of anderszins voor de aanleg daarvan voorziening te maken.

- (viii) Wegen, uitspanningen, ponten en bruggen, uitgezonderd bruggen die twee provincies verbinden.
- (ix) Markten en schutten.
- (x) Bescherming van vis en wild.
- (xi) Strafoplegging bij wijze van boete, of gevangenis ter handhaving van wetten of provinciale ordonanties, rakende een van de klassen van onderwerpen vermeld in dit artikel.
- (xii) In 't algemeen alle onderwerpen, welke volgens het oordeel van de Goeverneur-generaal-in-Rade slechts van plaatselijke of private aard in de provincie zijn.
- (xiii) Alle andere aangelegenheden ter regeling waarvan het Parlement aan de Provinciale Raad het recht om ordonanties te maken opdraagt.

86. Een ordonantie van een Provinciale Raad heeft verbindende kracht in en voor de provincie zolang en zover slechts als dezelve niet strijdt met een Parlements-wet. Uitwerking van provinciale ordonanties.

87. Een Provinciale Raad kan aan 't Parlement de invoering aanbevelen van wetten betrekkelijk onderwerpen welke de Raad niet bevoegd is bij ordonantie te regelen. Aanbevelingen aan Parlement.

88. De Provinciale Raad is bevoegd in alle tot de provincie betrekkelijke aangelegenheden, welke regeling vereisen door middel van een private Parlements-wet, met inachtneming van de voorschriften door 't Parlement te worden vastgesteld, door een gekozen komitee of op andere wijze getuigenis voor en tegen de invoering van de wet in te winnen, en op ontvangst van een verslag van de Raad vergezeld van de getuigenis waarop het gegrond is, is het Parlement bevoegd de wet aan te nemen zonder verder getuigenis tot staving daarvan. Macht om te handelen met zaken behoorlijk bij private wetgeving behandeld.

89. Een Provinciaal Inkomstefonds wordt in ieder provincie gesticht, waarin alle inkomsten geheven door of opkomende aan de Provinciale Raad en alle gelden door de Goeverneur-generaal-in-Rade aan de Provinciale Raad betaald worden gestort. Het fonds wordt door de Provinciale Raad bij ordonantie beschikbaar gesteld ten Provinciaal Inkomstefonds.

the provincial administration generally, or, in the case of moneys paid over by the Governor-General-in-Council for particular purposes, then for such purposes but no such ordinance shall be passed by the provincial council unless the administrator shall have first recommended to the council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the provincial revenue fund except in accordance with such appropriation and under warrant signed by the administrator: Provided that, until the expiration of one month after the first meeting of the provincial council, the administrator may expend such moneys as may be necessary for the services of the province.

Assent to  
provincial  
ordinances

90. When a proposed ordinance has been passed by a provincial council it shall be presented by the administrator to the Governor-General-in-Council for his assent. The Governor-General-in-Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until, within one year from the day on which it was presented to the Governor-General-in-Council, he makes known by proclamation that it has received his assent.

Effect and  
enrolment of  
ordinances.

91. An ordinance assented to by the Governor-General-in-Council and promulgated by the administrator shall, subject to the provisions of this Act, have the force of law within the province. The administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of such ordinance, and, in case of conflict between the two copies thus deposited, that signed by the Governor-General shall prevail.

#### *Miscellaneous.*

Audit of  
provincial  
accounts.

92. (1) In each province there shall be an auditor of accounts to be appointed by the Governor-General-in-Council.

(2) No such auditor shall be removed from office except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both

behoefte van de provinciale huishouding in 't algemeen, of, waar het gelden betreft, door de Goeverneur-generaal-in-Rade voor bijzondere doeleinden betaald, alsdan voor zulke doeleinden, doch geen zodanige ordonantie wordt door de Provinciale Raad aangenomen, alvorens de Administrateur aan de Raad aanbevolen heeft om voor de bijzondere dienst waarvoor de beschikbaarstelling geschiedt, voorziening te maken. Geen geld wordt uit het Provinciaal Inkomstefonds betaald, tenzij overeenkomstig de beschikbaarstelling en krachtens volmacht getekend door de Administrateur, met dien verstande dat de Administrateur bevoegd is tot na afloop van een maand na de eerste vergadering van de Provinciale Raad de voor de provinciale huishouding benodigde gelden te besteden.

90. Een door een Provinciale Raad aangenomen voorgestelde ordonantie wordt door de Administrateur aan de Goeverneur-generaal-in-Rade ter goedkeuring aangeboden. De Goeverneur-generaal-in-Rade verklaart binnen een maand na aanbieding van de voorgestelde ordonantie dat hij zijn toestemming daartoe verleent of weigert of dat hij de ordonantie voor nadere overweging aanhoudt. Een voorgestelde ordonantie aldus aangehouden is niet verbindend, tenzij en alvorens de Goeverneur-generaal-in-Rade binnen een jaar van af de dag waarop dezelve hem aangeboden werd bij proklamatie afkondigt dat dezelve zijn toestemming ontvangen heeft.

Goedkeuring  
van  
provinciale  
ordonanties.

91. Een ordonantie door de Goeverneur-in-Rade goedgekeurd en door de Administrateur afgekondigd heeft behoudens de bepalingen van deze Wet kracht van wet in de provincie. De Administrateur doet twee afschriften in 't net van ieder ordonantie, het een in de engelse, het ander in de hollandse taal, één getekend door de Goeverneur-generaal, ten kantore van de Registrateur van de Afdeling van Appèl van 't Hooggerechtshof van Zuid-Afrika registreren. Deze afschriften leveren ten opzichte van de bepalingen van de ordonantie volledig bewijs op, zullende in geval van verschil tussen de twee gedeponeerde afschriften het door de Goeverneur-generaal getekende de voorkeur hebben.

Uitwerking  
en registratie  
van  
ordonanties.

#### GEMENGDE BEPALINGEN.

92. (1) Er zal in ieder provincie zijn een Auditeur van Rekeningen die door de Goeverneur-generaal-in-Rade aangesteld wordt.

Auditeren  
van  
provinciale  
rekeningen.

(2) De Auditeur wordt niet anders ontslagen dan door de Goeverneur-generaal-in-Rade onder opgave van redenen welke, het Parlement in zitting zijnde, binnen

Houses of Parliament within one week after the removal, if Parliament be then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(3) Each such auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council, with the approval of Parliament, shall determine.

(4) Each such auditor shall examine and audit the accounts of the province to which he is assigned subject to such regulations and orders as may be framed by the Governor-General-in-Council and approved by Parliament, and no warrant signed by the administrator authorizing the issuing of money shall have effect unless countersigned by such auditor.

Continuation  
of powers of  
divisional and  
municipal  
councils.

93. Notwithstanding anything in this Act contained, all powers, authorities, and functions lawfully exercised at the establishment of the Union by divisional or municipal councils, or any other duly constituted local authority, shall be and remain in force until varied or withdrawn by Parliament or by a provincial council having power in that behalf.

Seats of  
provincial  
government.

94. The seats of provincial government shall be—  
 For the Cape of Good Hope Capetown.  
 For Natal . . . . . Pietermaritzburg.  
 For the Transvaal . . . . . Pretoria.  
 For the Orange Free State.. Bloemfontein.

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## PART VI.

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### *The Supreme Court of South Africa.*

Constitution  
of Supreme  
Court.

95. There shall be a Supreme Court of South Africa consisting of a Chief Justice of South Africa, the ordinary judges of appeal, and the other judges of the several divisions of the Supreme Court of South Africa in the provinces.

Appellate  
Division of  
Supreme  
Court.

96. There shall be an Appellate Division of the Supreme Court of South Africa, consisting of the Chief Justice of South Africa, two ordinary judges of appeal, and two additional judges of appeal. Such additional judges of appeal shall be assigned by the Governor-General-in-Council to the Appellate Division from any of the provincial or local divisions of the Supreme Court of South Africa, but shall continue to perform their duties as judges of their respective divisions when their attendance is not required in the Appellate Division.

een week na 't ontslag aan beide Huizen van Parlement medegeedeeld worden bij boodschap, en het Parlement niet in zitting zijnde, alsdan binnen een week na 't begin van de eerstvolgende zitting.

(3) Ieder zodanige Auditeur ontvangt uit het Gekonsolideerd Inkomstefonds een door de Goeverneur-generaal onder goedkeuring van 't Parlement nader vast te stellen bezoldiging.

(4) Ieder zodanige Auditeur onderzoekt en neemt de rekeningen op van de provincie, waarvoor hij aangesteld is, met inachtneming van zodanige regulaties en orders als door de Goeverneur-generaal-in-Rade vastgesteld en door 't Parlement goedgekeurd mochten worden, en geen door de Administrateur getekende volmacht tot uitgifte van geld is van kracht zonder de mede-ondertekening van de Auditeur.

93. Niettegenstaande een of ander bepaling van deze Wet, zijn en blijven alle machten, bevoegdheden en functies ten tijde van 't tot stand komen van de Unie door afdelings- of stadsraden of een ander behoorlijk ingesteld plaatselijk gezag uitgeoefend, van kracht tot zij door 't Parlement of een desbevoegd Provinciale Raad gewijzigd of ingetrokken worden.

Voortbestaan van machten van afdelings- en stadsraden.

94. De zetels van de Provinciale Regering zijn:—

Voor Kaap de Goede Hoop	..	Kaapstad.
Voor Natal	.. .. .	Pietermaritzburg.
Voor Transvaal	.. .. .	Pretoria.
Voor Oranje Vrijstaat	..	Bloemfontein.

Provinciale regerings-zetels.

## DEEL VI.

### *Het Hooggerechtshof van Zuid-Afrika.*

95. Er zal zijn een Hooggerechtshof van Zuid-Afrika, samengesteld uit een Hoofdrechter van Zuid-Afrika, de gewone rechters van appèl en de andere rechters van de afdelingen van 't Hooggerechtshof van Zuid-Afrika in de provincies.

Samenstelling van Hooggerechtshof.

96. Er zal zijn een Afdeling van Appèl van 't Hooggerechtshof van Zuid-Afrika, samengesteld uit de Hoofdrechter van Zuid-Afrika, twee gewone rechters van appèl en twee additionele rechters van appèl. De additionele rechters van appèl worden van tijd tot tijd uit een van de provinciale of plaatselijke afdelingen van 't Hooggerechtshof door de Goeverneur-generaal-in-Rade aan de Afdeling van Appèl toegevoegd, doch blijven hun plichten als rechters van hun eigen afdelingen waarnemen, wanneer hun tegenwoordigheid niet vereist wordt in de Afdeling van Appèl.

Appèl-afdeling van Hooggerechtshof.

Filling of temporary vacancies in Appellate Division.

97. The Governor-General-in-Council may, during the absence, illness, or other incapacity of the Chief Justice of South Africa, or of any ordinary or additional judge of appeal, appoint any other judge of the Supreme Court of South Africa to act temporarily as such chief justice, ordinary judge of appeal, or additional judge of appeal, as the case may be.

*For new Sec. 97, vide Sec. 1 Act 41/1941.*

Constitution of provincial and local divisions of Supreme Court.

98. (1) The several supreme courts of the Cape of Good Hope, Natal, and the Transvaal, and the High Court of the Orange River Colony shall, on the establishment of the Union, become provincial divisions of the Supreme Court of South Africa within their respective provinces, and shall each be presided over by a judge-president.

(2) The court of the eastern districts of the Cape of Good Hope, the High Court of Griqualand, the High Court of Witwatersrand, and the several circuit courts, shall become local divisions of the Supreme Court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(3) The said provincial and local divisions, referred to in this Act as superior courts, shall, in addition to any original jurisdiction exercised by the corresponding courts of the Colonies at the establishment of the Union, have jurisdiction in all matters—

- (a) in which the Government of the Union or a person suing or being sued on behalf of such Government is a party:
- (b) in which the validity of any provincial ordinance shall come into question.

(4) Unless and until Parliament shall otherwise provide, the said superior courts shall *mutatis mutandis* have the same jurisdiction in matters affecting the validity of elections of members of the House of Assembly and provincial councils as the corresponding courts of the Colonies have at the establishment of the Union in regard to parliamentary elections in such Colonies respectively.

Continuation in office of existing judges.

99. All judges of the supreme courts of the Colonies, including the High Court of the Orange River Colony, holding office at the establishment of the Union shall on such establishment become judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union. The Chief

97. De Geverneur-generaal-in-Rade is bevoegd tijdens de afwezigheid, ziekte of ander onvermogen van de Hoofdrechter van Zuid-Afrika, of van een gewoon of additionele rechter van appèl, een rechter van 't Hooggerechtshof van Zuid-Afrika tijdelijk als Hoofdrechter, gewoon rechter van appèl of additionele appèlrechter, al naar het geval moge zijn, aan te stellen.

Opvullen van tijdelijke vakatures in Appèl-afdeling.

98. (1) De Hooggerechtshoven van de Kaap de Goede Hoop, Natal en Transvaal, alsmede het Hogehof van de Oranje Rivier Kolonie, worden bij totstandkoming van de Unie provinciale afdelingen van het Hooggerechtshof van Zuid-Afrika in hun respektieve provincies en zullen ieder onder voorzitterschap van een Rechter-President zijn.

Samenstelling van provinciale en lokale afdelingen van het Hooggerechtshof.

(2) Het Hof van de Oostelike Distrikten van de Kaap de Goede Hoop, het Hogehof van Grikwaland, het Hogehof van Witwatersrand, en de Rondgaande Hoven worden plaatselijke afdelingen van 't Hooggerechtshof van Zuid-Afrika binnen de uitgestrektheid van hun jurisdictie respektievelijk zoals bestaande ten tijde van de totstandkoming van de Unie.

(3) De genoemde provinciale en plaatselijke afdelingen, in deze Wet als Hogere Hoven aangeduid, nemen, onverminderd de oorspronkelijke jurisdictie door de overeenkomstige Hoven van de Kolonies ten tijde van de totstandkoming van de Unie uitgeoefend, kennis van alle zaken

- (a) waarin de Regering van de Unie of iemand namens de Regering, hetzij eisende of verwerende, in rechten optreedt,
- (b) waarin de geldigheid van een provinciale ordonantie in geschil is.

(4) Tenzij en tot het Parlement anders bepaalt, hebben de vermelde Hogere Hoven *mutatis mutandis* dezelfde jurisdictie in zaken rakende de geldigheid van verkiezingen van leden van de Volksraad en Provinciale Raden, welke de overeenkomstige Hoven van de Kolonies bezaten ten tijde van de totstandkoming van de Unie in zake parlementaire verkiezingen in de Kolonies.

99. Alle rechters van de Hooggerechtshoven van de Kolonies, met inbegrip van het Hogehof van de Oranje Rivier Kolonie, ten tijde van de totstandkoming van de Unie in dienst zijnde, worden bij 't tot stand komen van de Unie rechters van 't Hooggerechtshof van Zuid-Afrika in de afdelingen van 't Hooggerechtshof in de respektieve provincies. Zij behouden de rechten, ten aanzien van bezoldiging en pensioen, door het tijdens de totstandkoming van de Unie genoten. De ten tijde van het tot

Voortblijven in ambten van bestaande rechters.

Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges-President of the divisions of the Supreme Court in the respective provinces, but shall so long as they hold that office retain the title of Chief Justice of their respective provinces.

Appointment  
and  
remuneration  
of judges.

100. The Chief Justice of South Africa, the ordinary judges of appeal, and all other judges of the Supreme Court of South Africa to be appointed after the establishment of the Union, shall be appointed by the Governor-General-in-Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be diminished during their continuance in office.

Tenure of  
office by  
judges.

101. The Chief Justice of South Africa and other judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General-in-Council on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

Reduction in  
number of  
judges.

102. Upon any vacancy occurring in any division of the Supreme Court of South Africa, other than the Appellate Division, the Governor-General-in-Council may, in case he shall consider that the number of judges of such court may with advantage to the public interests be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

Appeals to  
Appellate  
Division.

103. In every civil case in which, according to the law in force at the establishment of the Union, an appeal might have been made to the Supreme Court of any of the Colonies from a superior court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division, except in cases of orders or judgments given by a single judge, upon applications by way of motion or petition or on summons for provisional sentence or judgments as to costs only, which by law are left to the discretion of the court. The appeal from any such orders or judgments, as well as any appeal in criminal cases from any such superior court, or the special reference by any such court of any point of law in a criminal case, shall be made to the provincial division corresponding to the court which before the establishment of the Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such provincial division



stand komen van de Unie fungerende Hoofdrechters van de Kolonies, zullen bij zodanige totstandkoming Rechters-President worden van de afdelingen van het Hooggerechts-hof in de respektieve provincies, maar zullen zolang zij die ambten blijven bekleden de titel van Hoofdrechter van hun respektieve provincies behouden.

100. De Hoofdrechter van Zuid-Afrika, de gewone rechters van appèl, en alle andere rechters van 't Hooggerechtshof van Zuid-Afrika na totstandkoming van de Unie te worden aangesteld, worden door de Goeverneur-generaal-in-Rade benoemd en zullen een door 't Parlement nader vast te stellen bezoldiging ontvangen welke tijdens hun ambtsbekleding niet vatbaar is voor vermindering.

Aanstelling  
en bezoldiging  
van rechters.

101. De Hoofdrechter van Zuid-Afrika en de andere rechters van 't Hooggerechtshof van Zuid-Afrika worden slechts uit hun ambt ontzet door de Goeverneur-generaal-in-Rade op voordracht van beide Huizen van Parlement tijdens dezelfde zitting, zodanige ontzetting verzoekende uit hoofde van wangedrag of onbekwaamheid.

Ambtstijd  
van rechters.

102. Bij 't ontstaan van een vakature in een afdeling van 't Hooggerechtshof van Zuid-Afrika, uitgezonderd de Afdeling van Appèl is de Goeverneur-generaal-in-Rade bevoegd, wanneer zijns inziens het aantal rechters van zodanig Hof ten voordele van 't openbaar belang kan worden verminderd, te wachten met de aanvulling van de vakature, tot het Parlement bepaalt heeft of de vermindering zal plaats vinden.

Vermindering  
van aantal  
rechters.

103. In elke civiele zaak waarin, volgens de wet van kracht ten tijde van de totstandkoming van de Unie, een appèl zou kunnen gemaakt worden naar het Hooggerechtshof van enige van de Kolonies van af een hoger hof in enige van de Kolonies of van af het Hogehof van Zuid-Rhodesië, zal het appèl alleen naar de Appèl-afdeling gemaakt worden, behalve in gevallen van orders of uitspraken door een enkel rechter geleverd op applikaties bij wijze van motie of petitie of op dagvaardingen voor provisioneel vonnis, of uitspraken ten opzichte alleen van kosten, welke volgens wet aan de bescheidenheid van het hof overgelaten worden. Het appèl van enig zodanig orders of uitspraken, alsmede enig appèl in kriminele zaken van enig zodanig hoger hof, of de speciale verwijzing door enig zodanig hof van enig wetspunt in een kriminele zaak, zullen worden gemaakt naar de provinciale afdeling die overeenkomt met het hof dat vóór het tot stand komen van de Unie jurisdictie in de zaak zou hebben gehad. Er zal geen verder appèl zijn tegen enig in appèl geleverde uitspraak door zodanige provinciale

Appèls naar  
Appèl-  
afdeling.

except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

Existing appeals.

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the Supreme Court of any of the Colonies or from the High Court of the Orange River Colony to the King-in-Council, the appeal shall be made only to the Appellate Division: Provided that the right of appeal in any civil suit shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in such suit.

Appeals from inferior courts to provincial divisions.

105. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from a court of resident magistrate or other inferior court to a superior court in any of the Colonies, the appeal shall be made to the corresponding division of the Supreme Court of South Africa; but there shall be no further appeal against any judgment given on appeal by such division except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

Provisions as to appeals to the King-in-Council.

106. There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King-in-Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but Bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure: Provided that nothing in this section shall affect any right of appeal to His Majesty-in-Council from any judgment given by the Appellate Division of the Supreme Court under or in virtue of the Colonial Courts of Admiralty Act, 1890.

53 & 54 Vict., c. 27.

Rules of procedure in Appellate Division.

107. The Chief Justice of South Africa and the ordinary judges of appeal may, subject to the approval of the Governor-General-in-Council, make rules for the conduct of the proceedings of the Appellate Division and prescribing the time and manner of making appeals thereto. Until such rules shall have been promulgated,

afdeling behalve naar de Appèl-afdeling, en dan alleen wanneer de Appèl-afdeling speciaal verlof om te appelleren zal hebben gegeven.

104. Alle civiele en kriminele zaken, waarvan ten tijde van de totstandkoming van de Unie van 't Hooggerechtshof van een Kolonie of van 't Hogehof van de Oranje Rivier Kolonie appèl kan worden aangetekend naar de Koning-in-Rade zijn slechts vatbaar voor appèl naar de Afdeling van Appèl mits dat het recht van appèl in civiele zaken niet beperkt wordt uit hoofde alleen van de waarde van de zaak in geschil of het bedrag in het geding gevorderd of toegewezen.

Bestaande appèls.

105. In elke zaak, hetzij civiele of kriminele, waarin ten tijde van 't tot stand komen van de Unie appèl kon worden aangetekend van een Resident Magistraatshof of een ander Lagerhof naar een Hogerhof in een van de Kolonies, wordt het appèl aangetekend bij de overeenkomstige afdeling van 't Hooggerechtshof van Zuid-Afrika, doch een vonnis door zodanige afdeling in appèl geweest, is slechts vatbaar voor appèl naar de Afdeling van Appèl van 't Hooggerechtshof van Zuid-Afrika, en alleen dan wanneer de Afdeling van Appèl uitdrukkelijk verlof van appèl verleend heeft.

Appèls van lagere hoven naar provinciale hoven.

106. Er zal geen appèl zijn van 't Hooggerechtshof van Zuid-Afrika of van een afdeling daarvan naar de Koning-in-Rade, zullende echter niets hierin vervat strekken tot verkorting van 't recht van de Koning-in-Rade om uitdrukkelijk verlof van appèl van de Afdeling van Appèl naar de Koning-in-Rade te verlenen. Het Parlement is bevoegd bij wettelijk voorschrift de zaken te beperken ten aanzien waarvan zulk uitdrukkelijk verlof kan worden verzocht, zullende echter wetsontwerpen, die zodanige beperking bevatten, door de Goueverneur-generaal ter inwinning van Zijn Majesteits behagen worden aangehouden; met dien verstande dat niets in dit artikel enig recht van appèl naar Zijn Majesteit-in-Rade van enig door de Appèl-afdeling van het Hooggerechtshof van Zuid-Afrika geleverde uitspraak krachtens of uit kracht van de Koloniale Admiraliteitshoven Wet 1890, aantasten zal.

Bepalingen met betrekking tot appèls naar de Koning-in-Rade.

53 en 54 Vict., c. 27.

107. De Hoofdrechter van Zuid-Afrika alsmede de gewone rechters van appèl zijn bevoegd, onder goedkeuring van de Goueverneur-generaal-in-Rade, regels vast te stellen voor de leiding van de verrichtingen van de Afdeling van Appèl en de tijd en wijze van aantekening van appèl naar dezelve voor te schrijven. Hangende de afkondiging van de regels, zijn de regels ten tijde van de

Regelen van procedure in Appèl-afdeling.

the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply.

Rules of procedure in provincial and local divisions.

108. The Chief Justice and other judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General-in-Council, frame rules for the conduct of the proceedings of the several provincial and local divisions. Until such rules shall have been promulgated, the rules in force at the establishment of the Union in the respective courts which become divisions of the Supreme Court of South Africa shall continue to apply therein.

Place of sittings of Appellate Division.

109. The Appellate Division shall sit in Bloemfontein, but may from time to time for the convenience of suitors hold its sittings at other places within the Union.

Quorum for hearing appeals.

110. On the hearing of appeals from a court consisting of two or more judges, five judges of the Appellate Division shall form a quorum, but, on the hearing of appeals from a single judge, three judges of the Appellate Division shall form a quorum. No judge shall take part in the hearing of any appeal against the judgment given in a case heard before him.

Jurisdiction of Appellate Division.

111. The process of the Appellate Division shall run throughout the Union, and all its judgments or orders shall have full force and effect in every province, and shall be executed in like manner as if they were original judgments or orders of the provincial division of the Supreme Court of South Africa in such province.

Execution of processes of provincial divisions.

112. The registrar of every provincial division of the Supreme Court of South Africa, if thereto requested by any party in whose favour any judgment or order has been given or made by any other division, shall, upon the deposit with him of an authenticated copy of such judgment or order and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is registrar.

Transfer of suits from one provincial or local division to another.

113. Any provincial or local division of the Supreme Court of South Africa to which it may be made to appear that any civil suit pending therein may be more conveniently or fitly heard or determined in another division, may order the same to be removed to such other division,

totstandkoming van de Unie van kracht in 't Hooggerechtshof van de Kaap de Goede Hoop *mutatis mutandis* van toepassing.

108. De Hoofdrechter en andere rechters van 't Hooggerechtshof van Zuid-Afrika zijn bevoegd, onder nadere goedkeuring van de Goeverneur-generaal-in-Rade, regels vast te stellen voor de leiding van de verrichtingen van de verschillende provinciale en plaatselijke afdelingen. Hangende de afkondiging van de regels, blijven de regels ten tijde van de totstandkoming van de Unie van kracht in de respektieve hoven welke afdelingen worden van 't Hooggerechtshof van Zuid-Afrika, daarin van toepassing.

Regels van procedure in provinciale en lokale afdelingen.

109. De Afdeling van Appèl is in zitting te Bloemfontein, doch kan van tijd tot tijd ten gerieve van gedingvoerende partijen haar zittingen op andere plaatsen binnen de Unie houden.

Plaats van zitting van Appèl-afdeling.

110. Voor 't verhoor van appèlzaken van een Hof bestaande uit twee of meer rechters, vormen vijf rechters van de Afdeling van Appèl een quorum.

Quorum voor horen van appèls.

Voor 't verhoor van appèlzaken van één rechter vormen drie rechters van de Afdeling van Appèl een quorum. Een rechter is onbevoegd deel te nemen aan 't verhoor van een appèl van een vonnis geveld in een zaak voor hem verhoord.

111. De gerechtelijke stukken van de Afdeling van Appèl zijn geldig in de ganse Unie en alle vonnissen en orders daarvan hebben in ieder provincie verbindende kracht en worden ten uitvoer gelegd op gelijke wijze alsof zij oorspronkelijke vonnissen of orders waren van de provinciale afdeling van 't Hooggerechtshof van Zuid-Afrika in de provincie.

Jurisdictie van Appèl-afdeling.

112. De Griffier van iedere provinciale afdeling van 't Hooggerechtshof van Zuid-Afrika, zal, desgevraagd door een partij ter wier gunste een vonnis of order door een andere afdeling gewezen of gegeven is, na overlegging van een gewaarmerkt afschrift van 't vonnis of de order en na geleverd bewijs dat daaraan niet voldaan is, ter uitvoering van 't vonnis of de order een lastbrief of ander gerechtelijke akte uitreiken, en daarop zal zodanige lastbrief of ander gerechtelijke akte op dezelfde wijze ten uitvoer gelegd worden, alsof dezelve oorspronkelijk in de afdeling waarvan hij griffier is uitgereikt was.

Executie van gerechtelijk bevelschrift van provinciale afdelingen.

113. Een provinciale of lokale afdeling van 't Hooggerechtshof van Zuid-Afrika, waaraan aangetoond wordt dat een voor dezelve hangende civiele zaak geriefeliker en behoorliker in een ander afdeling verhoord of beslist kan worden, is bevoegd de overbrenging daarvan

Overdracht van gedingen van de een naar de andere provinciale of lokale afdeling.

and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

Registrar and  
officers of  
Appellate  
Division.

114. The Governor-General-in-Council may appoint a registrar of the Appellate Division and such other officers thereof as shall be required for the proper dispatch of the business thereof.

Advocates  
and attorneys.

115. (1) The laws regulating the admission of advocates and attorneys to practise before any superior court of any of the Colonies shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the corresponding division of the Supreme Court of South Africa.

(2) All advocates and attorneys entitled at the establishment of the Union to practise in any superior court of any of the Colonies shall be entitled to practise as such in the corresponding division of the Supreme Court of South Africa.

(3) All advocates and attorneys entitled to practise before any provincial division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division.

Pending suits.

116. All suits, civil or criminal, pending in any superior court of any of the Colonies at the establishment of the Union shall stand removed to the corresponding division of the Supreme Court of South Africa, which shall have jurisdiction to hear and determine the same, and all judgments and orders of any superior court of any of the Colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the Supreme Court of South Africa. All appeals to the King-in-Council which shall be pending at the establishment of the Union shall be proceeded with as if this Act had not been passed.

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## PART VII.

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### *Finance and Railways.*

Constitution  
of  
Consolidated  
Revenue  
Fund and  
Railway and  
Harbour  
Fund.

117. All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation, shall vest in the Governor-General-in-Council. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General-in-Council

naar zodanige andere afdeling te gelasten, zullende laatstgemelde afdeling met de zaak kunnen voortgaan alsof dezelfde oorspronkelijk voor dezelve aanhangig gemaakt was.

114. De Goeverneur-generaal-in-Rade is bevoegd een griffier van de Afdeling van Appèl en andere ambtenaren die voor de behoorlijke afdoening van de werkzaamheden ervan benodigd zijn aan te stellen.

Griffier en ambtenaren van Appèl-afdeling.

115. (1) De wettelijke bepalingen regelende de toelating van advokaten en prokureurs tot de praktijk voor een Hogerhof van een Kolonie zijn *mutatis mutandis* toepasselijk op de toelating van advokaten en prokureurs tot de praktijk en de overeenkomstige afdeling van 't Hooggerechtshof van Zuid-Afrika.

Advokaten en prokureurs.

(2) Alle advokaten en prokureurs, ten tijde van de totstandkoming van de Unie bevoegd om voor een Hogerhof van een Kolonie te praktizeren, zijn gerechtigd als zodanig in de overeenkomstige afdeling van 't Hooggerechtshof van Zuid-Afrika te praktizeren.

(3) Alle advokaten en prokureurs, bevoegd om in een provinciale afdeling van 't Hooggerechtshof van Zuid-Afrika te praktizeren, zijn gerechtigd voor de Afdeling van Appèl te praktizeren.

116. Alle ten tijde van de totstandkoming van de Unie voor een Hogerhof van een Kolonie aanhangige civiele of kriminele zaken worden en zijn bij deze overgebracht naar de overeenkomstige afdeling van 't Hooggerechtshof van Zuid-Afrika, die bevoegd is dezelve te horen en te beslissen. Alle vonnissen en orders van een Hogerhof van een Kolonie, gewezen of gemaakt vóór de totstandkoming van de Unie, hebben gelijke verbindende kracht alsof zij gewezen of gemaakt waren door de overeenkomstige afdelingen van 't Hooggerechtshof van Zuid-Afrika.

Hangende zaken.

Alle ten tijde van het tot stand komen van de Unie hangende appèls naar de Koning-in-Rade zullen voortgezet worden alsof deze Wet niet uitgevaardigd is geworden.

## DEEL VII.

### *Financieën en Spoorwegen.*

117. Alle inkomsten, uit welke bron ook voortvloeiende, waarover de Kolonies ten tijde van de totstandkoming van de Unie het recht van beschikbaarstelling hebben, berusten bij de Goeverneur-generaal-in-Rade. Er zal worden gevormd een Spoorweg- en Havenfonds, waarin alle inkomsten door de Goeverneur-generaal-in-Rade uit

Konstitutie van het Gekonsolideerd Inkomste-fonds en het Spoorweg- en Havenfonds.

from the administration of the railways, ports, and harbours, and such fund shall be appropriated by Parliament to the purposes of the railways, ports, and harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into which shall be paid all other revenues raised or received by the Governor-General-in-Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act, and subject to the charges imposed thereby.

Commission of inquiry into financial relations between Union and provinces.

118. The Governor-General-in-Council shall, as soon as may be after the establishment of the Union, appoint a commission, consisting of one representative from each province, and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the provinces. Pending the completion of that inquiry and until Parliament otherwise provides, there shall be paid annually out of the Consolidated Revenue Fund to the administrator of each province—

- (a) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year, 1908-09, as voted by the Legislature of the corresponding colony during the year nineteen hundred and eight;
- (b) such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the provinces respectively.

Until such inquiry shall be completed and Parliament shall have made other provisions, the executive committees in the several provinces shall annually submit estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any executive committee which is not provided for in such approved estimates.

Security for existing public debts.

119. The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form a first charge on the Consolidated Revenue Fund.

Requirements for withdrawal of money from funds.

120. No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under appropriation made by law. But, until the



het beheer van de spoorwegen en havens getrokken en ontvangen worden gestort. Zodanig fonds wordt door 't Parlement beschikbaar gesteld voor spoorweg- en haven-doeleinden, zoals bij deze Wet voorgeschreven. Er zal tevens worden gesticht een Gekonsolideerd Inkomstefonds waarin alle verdere door de Goeverneur-generaal-in-Rade getrokken of ontvangen inkomsten worden gestort. Dit fonds wordt door 't Parlement beschikbaar gesteld ten behoeve van de Unie overeenkomstig de voorschriften van deze Wet en onder bezwaar van de lasten daarbij opgelegd.

118. De Goeverneur-generaal-in-Rade stelt, zodra mogelijk, na totstandkoming van de Unie, een Kommissie aan, bestaande uit een vertegenwoordiger van ieder provincie onder voorzitterschap van een ambtenaar van 's Rijksdienst, ten einde een onderzoek in te stellen naar de financiële betrekkingen, welke tussen de Unie en de provincies behoren te bestaan. Hangende het eind van dit onderzoek en tot het Parlement anders bepaalt, wordt jaarliks uit het Gekonsolideerd Inkomstefonds aan de Administrateur van ieder provincie uitgekeerd:—

Kommissie van onderzoek naar financiële verhouding tussen de Unie en provincies.

- (a) Een bedrag gelijk aan de som op de begroting ten behoeve van onderwijs, uitgezonderd hoger onderwijs, voor het dienstjaar 1908-09 uitgetrokken, zoals door de Wetgevende Macht van de overeenkomstige Kolonie gedurende het jaar 1908 bewilligd.
- (b) Zodanig verdere bedragen welke naar 't oordeel van de Goeverneur-generaal-in-Rade benodigd zijn voor de behoorlijke behartiging van de diensten en plichten aan de provincies opgedragen.

Hangende het eind van dit onderzoek en tot het Parlement anders voorzien heeft, leggen de Uitvoerende Raden in de provincies jaarliks ter goedkeuring van de Goeverneur-generaal-in-Rade een begroting over van haar uitgaven. En geen uitgave wordt door de Uitvoerende Raad gedaan, welke niet in de goedgekeurde begroting vastgesteld is.

119. De jaarlijkse rente op de Staatschulden van de Kolonies en delgingsfondsen krachtens wettelijke bepaling ten tijde van 't tot stand komen van de Unie ingesteld, vormen een preferente last op het Gekonsolideerd Inkomstefonds.

Sekuriteit voor bestaande Staat-schulden.

120. Geen gelden worden uit het Gekonsolideerd Inkomstefonds of het Spoorweg- en Havenfonds getrokken, tenzij overeenkomstig de wettelijke beschikbaar-stelling. Doch tot na afloop echter van twee maanden na

Vereisten voor het uittrekken van gelden uit fondsen.

expiration of two months after the first meeting of Parliament, the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service, and for railway and harbour administration respectively.

Transfer of  
Colonial  
property to  
the Union.

121. All stocks, cash, bankers' balances, and securities for money belonging to each of the Colonies at the establishment of the Union shall be the property of the Union: Provided that the balances of any funds raised at the establishment of the Union by law for any special purposes in any of the Colonies shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

Crown lands,  
etc.

122. Crown lands, public works, and all property throughout the Union, movable or immovable, and all rights of whatever description belonging to the several Colonies at the establishment of the Union, shall vest in the Governor-General-in-Council subject to any debt or liability specifically charged thereon.

Mines and  
minerals.

123. All rights in and to mines and minerals, and all rights in connection with the searching for, working for, or disposing of, minerals or precious stones, which at the establishment of the Union are vested in the Government of any of the Colonies, shall on such establishment vest in the Governor-General-in-Council.

Assumption  
by Union of  
colonial  
debts.

124. The Union shall assume all debts and liabilities of the Colonies existing at its establishment, subject, notwithstanding any other provision contained in this Act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund, and other charges conferred on the creditors of any of the Colonies, and may, subject to such conditions and rights, convert, renew, or consolidate such debts.

Ports,  
harbours, and  
railways.

125. All ports, harbours, and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General-in-Council. No railway for the conveyance of public traffic, and no port, harbour, or similar work, shall be constructed without the sanction of Parliament.

Constitution  
of Harbour  
and Railway  
Board.

126. Subject to the authority of the Governor-General-in-Council, the control and management of the railways, ports, and harbours of the Union shall be exercised

de eerste vergadering van 't Parlement is de Goeverneur-generaal-in-Rade bevoegd, de ten behoeve van de Staatsdienst en van 't spoorweg- en havenbeheer respektievelijk benodigde geldsommen te trekken en te besteden.

121. Effekten, kontanten, banksaldo's en sekuriteiten voor gelden aan ieder Kolonie ten tijde van 't tot stand komen van de Unie toebehorende, worden het eigendom van de Unie. Saldo's echter van fondsen ten tijde van 't tot stand komen van de Unie bij wettelijk voorschrift in een van de Kolonies voor een bepaald doel bijeengebracht worden geacht voor zulk bepaald aangewezen doel door 't Parlement beschikbaar te zijn gesteld.

Transport van koloniaal eigendom aan de Unie.

122. Kroonland, opènbare werken en alle eigendommen, vaste zowel als losse, in de ganse Unie ten tijde van 't tot stand komen van de Unie aan de Kolonies toebehorende, alsmede alle rechten van welke aard ook, berusten bij de Goeverneur-generaal-in-Rade, onverminderd uitdrukkelijk daarop gevestigde schuldplichtigheden.

Kroongron-den, enz.

123. Alle rechten op en tot mijnen en delfstoffen, alsmede alle rechten in verband met het zoeken, het delven naar of het vervreemden van delfstoffen of edelgesteenten, welke ten tijde van 't tot stand komen van de Unie berusten bij de Regering van een van de Kolonies, berusten na de totstandkoming van de Unie bij de Goeverneur-generaal-in-Rade.

Mijnen en mineralen.

124. De Unie zal alle schulden en verantwoordelikheden van de Kolonies die ten tijde van het tot stand komen daarvan bestaan overnemen, onderworpen, niettegenstaande enig ander bepaling in deze Wet, aan de door enig wet opgelegde voorwaarden krachtens welke zodanige schulden of verantwoordelikheden opgenomen of aangegaan werden, en onverminderd enige sekuriteits- of voorkeurrechten ten opzichte van de afbetaling van de principaal, rente, amortisatiefonds en andere lasten aan de krediteuren van enige der Kolonies verleend en kan, onderworpen aan zodanige voorwaarden en rechten, zodanige schulden overzetten, vernieuwen of konsolideren.

Overnemen door Unie van koloniale schulden.

125. Alle havens en spoorwegen aan de Kolonies ten tijde van 't tot stand komen van de Unie toebehorende, berusten van af de datum daarvan bij de Goeverneur-generaal-in-Rade. Geen spoorweg, voor het transport van publiek verkeer en geen haven of dergelijk werk, wordt aangelegd zonder bewilliging van 't Parlement.

Havens en spoorwegen.

126. Het beleid en beheer van de spoorwegen, en havens van de Unie worden, behoudens het gezag van de Goeverneur-generaal-in-Rade, gevoerd door een Direktie

Samenstelling van Haven- en Spoorweg-raad.

through a board consisting of not more than three commissioners, who shall be appointed by the Governor-General-in-Council, and a minister of State, who shall be chairman. Each commissioner shall hold office for a period of five years, but may be re-appointed. He shall not be removed before the expiration of his period of appointment, except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective terms of office.

Administra-  
tion of  
railways,  
ports, and  
harbours.

127. The railways, ports, and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of all provinces of the Union. So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation, and the payment of interest due on capital not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections *one hundred and thirty* and *one hundred and thirty-one*. The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund. The Governor-General-in-Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union. During such period, if the revenues accruing to the Consolidated Revenue Fund are insufficient to provide for the general service of the Union, and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein, Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund.

bestaande uit hoogstens drie Kommissarissen, welke door de Goeverneur-generaal-in-Rade aangesteld worden, en een Minister van Staat als voorzitter. Een Kommissaris bekleedt zijn bediening gedurende vijf jaren, doch is herbenoembaar. Hij wordt niet ontslagen voor het einde van zijn ambtstijd, uitgezonderd door de Goeverneur-generaal-in-Rade onder opgave van redenen, welke, het Parlement in zitting zijnde, bij boodschap aan beide Huizen van Parlement binnen een week na zijn ontslag medegedeeld worden of, het Parlement niet in zitting zijnde, binnen een week na de aanvang van de eerstvolgende zitting. De bezoldiging van een Kommissaris wordt vastgesteld door 't Parlement en is gedurende zijn ambtstijd niet vatbaar voor vermindering.

127. De spoorwegen en havens van de Unie worden beheerd volgens handelsbeginselen, met behoorlijke inachtneming van de landbouwkundige en industriële ontwikkeling in de Unie en de bevordering door middel van goedkoop vervoer, van de vestiging van een landbouwkundige en industriële bevolking in de binnenlandse delen van al de provincies van de Unie. Zoveel mogelijk zullen de gezamenlijke verdiensten niet meer bedragen dan benodigd zijn tot dekking van de onkosten van exploitatie, onderhoud, verbetering, waardevermindering en betaling van rente verschuldigd op kapitaal, uitgezonderd op kapitaal uit spoorweg- of haven-inkomsten afkomstig, alsmede uitgezonderd sommen uit het Gekonsolideerd Inkomstefonds overeenkomstig artikels *honderd en dertig* en *honderd een en dertig*. Het bedrag van de rente op het aldus belegd kapitaal verschuldigd wordt door het Spoorweg- en Havenfonds in het Gekonsolideerd Inkomstefonds gestort. De Goeverneur-generaal-in-Rade zal de bepalingen van dit artikel ten uitvoer leggen, zodra en ten tijde de nodige administratieve en financiële voorzieningen gemaakt kunnen worden, maar zal in elk geval dezelve ten volle ten uitvoer leggen vóór verloop van vier jaren van af het tot stand komen van de Unie. Indien, gedurende zodanig tijdperk, de aan het Gekonsolideerd Inkomstefonds toekomstige inkomsten onvoldoende zijn, ten einde voorziening te maken voor de algemene dienst van de Unie, en indien de aan het Spoorweg- en Havenfonds toekomstige verdiensten de hierin vermelde uitgaven te boven gaan, dan kan het Parlement bij wet zodanig overschot of enig gedeelte daarvan toeëigenen voor de algemene uitgaven van de Unie, en alle aldus toegeëigende sommen zullen betaald worden aan het Gekonsolideerd Inkomstefonds.

Administratie  
van  
spoorwegen  
en haven.

Establishment of fund for maintaining uniformity of railway rates.

128. Notwithstanding anything to the contrary in the last preceding section, the Board may establish a fund out of railway and harbour revenue to be used for maintaining, as far as may be, uniformity of rates notwithstanding fluctuations in traffic.

Management of railway and harbour balances.

129. All balances standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Board, and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

Construction of harbour and railway works.

130. Every proposal for the construction of any port or harbour works or of any line of railway, before being submitted to Parliament, shall be considered by the Board, which shall report thereon, and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance, and of interest on the capital invested therein, it shall frame an estimate of the annual loss which, in its opinion, will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund: Provided that, if in any year the actual loss incurred, as calculated by the Board and certified by the Controller and Auditor-General, is less than the estimate framed by the Board, the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line, the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

Making good of deficiencies in Railway Fund in certain cases.

131. If the Board shall be required by the Governor-General-in-Council or under any Act of Parliament or resolution of both Houses of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General, showing, as nearly as can be ascertained, the

128. De Direktie is bevoegd niettegenstaande enige tegenstrijdige bepaling in het laatstvoorafgaande artikel uit spoorweg- en haven-inkomsten een fonds te stichten, ten einde zover doenlik eenvormigheid van tarief te bewaren niettegenstaande verkeersvermindering of toename.

Stichting van fonds ter handhaving van gelijkheid van spoorweg vrachten.

129. Batige saldo's van een fonds in een van de Kolonies ten tijde van de totstandkoming van de Unie voor spoorweg- en havendoeleinden opgericht, staan onder het uitsluitend beleid en beheer van de Direktie en worden geacht door 't Parlement voor de respektieve aangewezen doeleinden beschikbaar te zijn gesteld.

Bestuur van spoorweg- en haven-saldo's.

130. Voorstellen tot aanleg van havens of havenwerken of van een spoorweglijn worden, alvorens aan 't Parlement voorgelegd te worden, door de Direktie in overweging genomen, die daaromtrent verslag uitbrengt en adviseert of de werken of de spoorweglijn al dan niet behoren aangelegd te worden. Worden dergelijke werken of een spoorweglijn in strijd met het advies van de Direktie aangelegd, dan maakt de Direktie, indien zij van oordeel is dat de bedrijfsinkomsten van de werken of de lijn ontoereikend zullen zijn om de onkosten van exploitatie, onderhoud en rente op het daarin belegde kapitaal te dekken, een raming op van 't jaarliks verlies dat haars inziens door het bedrijf ervan geleden zal worden. De raming wordt door de Kontroleur en Auditeur-generaal nagezien en bij goedkeuring door hem wordt het bedrag ervan jaarliks door het Gekonsolideerd Inkomstefonds aan het Spoorweg- en Havenfonds betaald. Wanneer echter in een jaar het werkelijk verlies volgens berekening van de Direktie en certifikaat van de Kontroleur en Auditeur-generaal minder is dan de raming door de Direktie gemaakt, wordt het voor dat jaar betaald bedrag verminderd, zodat het werkelijk verlies niet overschreden wordt. Bij 't berekenen van 't verlies op het bedrijf van het werk of de lijn, slaat de Direktie acht op de waarde van de verkeersbijdrage tot andere delen van het stelsel, die het gevolg mocht zijn van de exploitatie van zodanig werk of lijn.

Oprichting van haven- en spoorwegwerken.

131. Wanneer door de Goeverneur-generaal-in-Rade of krachtens een Parlements wet of besluit van beide Huizen van Parlement van de Direktie verlangd wordt, diensten of faciliteiten hetzij kosteloos te verstrekken, hetzij voor een tarief, dat ontoereikend is om de onkosten in verband met het verstrekken van de diensten of faciliteiten te dekken, legt de Direktie aan 't einde van elk dienstjaar aan 't Parlement een door de Kontroleur en Auditeur-generaal goedgekeurde rekening voor, ten

Vergeoeden van tekorten in spoorweg-fonds in zekere gevallen.

amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

Controller  
and Auditor-  
General.

132. The Governor-General-in-Council shall appoint a Controller and Auditor-General who shall hold office during good behaviour: Provided that he shall be removed by the Governor-General-in-Council on an address praying for such removal presented to the Governor-General by both Houses of Parliament: Provided further that when Parliament is not in session the Governor-General-in-Council may suspend such officer on the ground of incompetence or misbehaviour; and, when and so often as such suspension shall take place, a full statement of the circumstances shall be laid before both Houses of Parliament within fourteen days after the commencement of its next session; and, if an address shall at any time during the session of Parliament be presented to the Governor-General by both Houses praying for the restoration to office of such officer, he shall be restored accordingly; and if no such address be presented the Governor-General shall confirm such suspension and shall declare the office of Controller and Auditor-General to be, and it shall thereupon become, vacant. Until Parliament shall otherwise provide, the Controller and Auditor-General shall exercise such powers and functions and undertake such duties as may be assigned to him by the Governor-General-in-Council by regulations framed in that behalf.

Compensa-  
tion of  
colonial  
capitals for  
diminution of  
prosperity.

133. In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form of diminution of prosperity or decreased rateable value by reason of their ceasing to be seats of government of their respective Colonies, there shall be paid from the Consolidated Revenue Fund for a period not exceeding twenty-five years to the municipal councils of such towns a grant of two per centum per annum on their municipal debts, as existing on the thirty-first day of January nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. The Commission appointed under section *one hundred and eighteen* shall, after due inquiry, report to the Governor-General-in-Council what compensation should be paid to the municipal councils of Capetown and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the Consolidated Revenue Fund for a period not exceeding twenty-five years, and shall not exceed one per centum per annum



naastebij aanwijzende het bedrag van 't verlies geleden door 't verstrekken van de diensten en faciliteiten; en het bedrag ervan wordt door het Gekonsolideerd Inkomstefonds aan 't Spoorweg- en Havenfonds betaald.

132. De Goeverneur-generaal-in-Rade stelt een geschikt persoon aan als Kontroleur en Auditeur-generaal die gedurende goed gedrag zijn bediening bekleedt. Hij wordt ontslagen door de Goeverneur-generaal-in-Rade op een daartoe strekkende aan de Goeverneur-generaal voorgelegde voordracht van beide Huizen van Parlement; met dien verstande, dat de Goeverneur-generaal-in-Rade bevoegd is wanneer het Parlement niet in zitting is zodanige ambtenaar te schorsen op grond van onbekwaamheid of wangedrag. Wanneer en zo dikwerf zodanige schorsing plaats vindt, wordt een volledig verslag van de omstandigheden voor beide Huizen van Parlement gelegd binnen veertien dagen na de aanvang van de eerstvolgende zitting, en op voordracht door beide Huizen van Parlement te eniger tijd gedurende de Parlementsitting aan de Goeverneur-generaal gedaan, verzoekende zijn herstelling in ambt, wordt zodanige ambtenaar dienovereenkomstig hersteld; en bij gebreke van zodanig voordracht bekrachtigt de Goeverneur-generaal de schorsing en verklaart de bediening van de Kontroleur en Auditeur-generaal opengevallen te zijn en dezelve zal daarop opengevallen zijn. Tot tijd en wijle het Parlement anders bepaalt oefent de Kontroleur en Auditeur-generaal zodanige bevoegdheden uit en vervult zodanige plichten als hem door de Goeverneur-generaal-in-Rade krachtens nader ter zake vast te stellen regulaties toegewezen mochten worden.

Kontroleur en  
Auditeur-  
generaal.

133. Tot schadeloosstelling van Pietermaritzburg en Bloemfontein voor 't verlies door dezelve gelden in de vorm van vermindering van welvaart of daling van belastbare waarde, doordien zij ophouden regeringzetsels van hun respektieve Kolonies te zijn, wordt uit het Gekonsolideerd Inkomstefonds gedurende hoogstens vijf en twintig jaren aan de stadsraden van genoemde steden nitgekeerd een toelage van twee percent in 't jaar op 't bedrag van hun schulden zoals bestaande op de één en dertigste Januarie 1909 en vastgesteld door de Kontroleur en Auditeur-generaal. De ingevolge artikel *honderd en achttien* aangestelde kommissie doet na behoorlik onderzoek, verslag aan de Goeverneur-generaal-in-Rade, betrekkelijk de schadeloosstelling welke aan de Stadsraden van Kaapstad en Pretoria nitgekeerd behoort te worden ter zake van 't verlies, indien enige, door hen op soortgelijke wijze geleden. Deze schadeloosstelling wordt uit het

Kompensatie  
aan koloniale  
hoofdsteden  
wegens  
vermindering  
van  
voorspoed.

on the respective municipal debts of such towns as existing on the thirty-first January nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. For the purposes of this section Capetown shall be deemed to include the municipalities of Capetown, Green Point, and Sea Point, Woodstock, Mowbray, and Rondebosch, Claremont, and Wynberg, and any grant made to Capetown shall be payable to the councils of such municipalities in proportion to their respective debts. One half of any such grants shall be applied to the redemption of the municipal debts of such towns respectively. At any time after the tenth annual grant has been paid to any of such towns the Governor-General-in-Council, with the approval of Parliament, may after due inquiry withdraw or reduce the grant to such town.

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## PART VIII.

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### *General.*

Method of voting for senators, etc.

\* 134. The election of senators and of members of the executive committees of the provincial councils as provided in this Act shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote. The Governor-General-in-Council, or, in the case of the first election of the Senate, the Governor-in-Council of each of the Colonies, shall frame regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith, and such regulations or any amendments thereof after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

Continuation of existing colonial laws.

135. Subject to the provisions of this Act, all laws in force in the several Colonies at the establishment of the Union shall continue in force in the respective provinces until repealed or amended by Parliament, or by the provincial councils in matters in respect of which the power to make ordinances is reserved or delegated to them. All legal commissions in the several Colonies at the establishment of the Union shall continue as if the Union had not been established.

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\* For regulations *re* election of senators, see Govt. Notice No. 399 of 1910 (*Gazette*, 18/4/10).

Gekonsolideerd Inkomstefonds gedurende hoogstens vijf en twintig jaren betaald en gaat één percent in het jaar op de municipale schulden van de genoemde steden, zoals bestaande op de één en dertigste Januarie 1909 en door de Kontroleur en Auditeur-generaal vastgesteld niet te boven. In de zin van dit artikel sluit Kaapstad in de municipaliteiten van Kaapstad, Groenpunt en Zeepunt, Woodstock, Mowbray en Rondebosch, Claremont en Wijnberg. Een aan Kaapstad toegekende toelage is betaalbaar aan de stadsraden van de municipaliteiten naar evenredigheid van hun schulden respektievelik. De helft van de toelage wordt aangewend tot aflossing van de municipale schulden van voornoemde steden respektievelik. Te allen tijde na betaling van de tiende jaarlijkse toelage aan een van de steden is de Goeverneur-generaal-in-Rade bevoegd, onder goedkeuring van 't Parlement, na behoorlijk onderzoek, de toelage aan een stad in te trekken of te verminderen.

## DEEL VIII.

### *Algemeen.*

\* 134. De verkiezing van senatoren en leden van de Uitvoerende Komitees van Provinciale Raden, zoals voorschreven bij deze Wet, geschiedt in geval van een betwiste verkiezing, volgens het beginsel van evenredige vertegenwoordiging, zullende elke kiezer één overdraagbare stem hebben. De Goeverneur-generaal-in-Rade, of in geval van de eerste verkiezing van de Senaat de Goeverneur-in-Rade van ieder Kolonie, stelt regulaties vast voorschrijvende de wijze waarop de stemming geschiedt en stemmen overgedragen en geteld worden, alsmede de plichten van verslagdoende kiesbeambten in verband ermee, en deze regulaties alsmede wijzigingen daarvan, hebben na behoorlijke afkondiging verbindende kracht tenzij of tot het Parlement anders bepaalt.

Wijze van  
stemming  
voor senators,  
enz.

135. Behoudens het bepaalde bij deze Wet blijven alle ten tijde van de totstandkoming van de Unie in de Kolonies in werking gestelde wetten in de respektieve provincies van kracht, tot zij herroepen of gewijzigd worden, hetzij door 't Parlement, hetzij door de Provinciale Raden in aangelegenheden, ten aanzien waarvan hun de bevoegdheid om ordonanties te maken voorbehouden of opgedragen is. Alle wettelijke kommissies in de Kolonies ten tijde van de totstandkoming van de Unie blijven in wezen alsof de Unie niet tot stand gekomen was.

In kracht  
blijven van  
bestaande  
wetten.

\* Voor regulaties re verkiezing van senatoren, zie Goevts. Kennisgeving No. 399 van 1910 (*Staatskoerant*, 18/4/10).

Free trade throughout the Union.

136. There shall be free trade throughout the Union, but until Parliament otherwise provides the duties of custom and of excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

Equality of English and Dutch languages.

137. Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights, and privileges; all records, journals, and proceedings of Parliament shall be kept in both languages, and all Bills, Acts, and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

Naturalization.

138. All persons who have been naturalized in any of the Colonies shall be deemed to be naturalized throughout the Union.

Administration of justice.

139. The administration of justice throughout the Union shall be under the control of the Minister of State, in whom shall be vested all powers, authorities, and functions which shall at the establishment of the Union be vested in the Attorneys-General of the Colonies, save and except all powers, authorities, and functions relating to the prosecution of crimes and offences, which shall in each province be vested in an officer to be appointed by the Governor-General-in-Council, and styled the Attorney-General of the province, who shall also discharge such other duties as may be assigned to him by the Governor-General-in-Council: Provided that in the province of the Cape of Good Hope the Solicitor-General for the Eastern Districts and the Crown Prosecutor for Griqualand West shall respectively continue to exercise the powers and duties by law vested in them at the time of the establishment of the Union.

Existing officers.

140. Subject to the provisions of the next succeeding section, all officers of the public service of the Colonies shall at the establishment of the Union become officers of the Union.

Reorganization of public departments.

141. (1) As soon as possible after the establishment of the Union, the Governor-General-in-Council shall appoint a public service commission to make recommendations for such reorganization and readjustment of the departments of the public service as may be necessary. The commission shall also make recommendations in regard to the assignment of officers to the several provinces.

(2) The Governor-General-in-Council may after such commission has reported assign from time to time to each

136. Er zal vrijhandel door de ganse Unie zijn, maar totdat het Parlement anders bepaalt, zullen de krachten de in enige Kolonie ten tijde van het tot stand komen der Unie bestaande wetten, hefbare invoer- en akeijusbelastingen van kracht blijven.

Vrije handel door ganse Unie.

137. De engelse alsmede de hollandse talen zijn officiële talen van de Unie. Zij worden op een voet van gelijkheid behandeld en bezitten en genieten gelijke vrijheid rechten en voorrechten. Alle akten, verslagen en verrichtingen van 't Parlement worden in beide talen gehouden en alle wetsontwerpen, wetten en kennisgevingen van algemeen publiek gewicht of belang door de Regering van de Unie uitgegeven, zijn en geschieden in beide talen.

Gelijkheid van engelse en hollandse talen.

138. Alle personen, die in een van de Kolonies genaturaliseerd zijn, worden geacht in de ganse Unie genaturaliseerd te zijn.

Naturalisatie.

139. De rechtspleging in de ganse Unie staat onder het beleid van een Minister van Staat, bij wie alle bevoegdheden en ambtsplichten berusten, welke ten tijde van 't tot stand komen van de Unie bij de Prokureurs-generaal van de Kolonies berusten, met uitzondering van alle bevoegdheden en ambtsplichten betreffende de vervolging van misdaden en overtredingen, welke in ieder provincie opgedragen zijn aan een ambtenaar door de Goeverneur-generaal-in-Rade te worden aangesteld onder de naam van Prokureur-generaal van de Provincie, die tevens zodanige andere plichten waarneemt, als hem door de Goeverneur-generaal-in-Rade opgedragen worden; met dien verstande, dat in de provincie van de Kaap de Goede Hoop de Prokureur-generaal voor de Oostelike Distrikten en de Kroon-aanklager voor Grikwaland West respectievelijk de bij hen ten tijde van het tot stand komen van de Unie krachten wet berustende machten en plichten zullen blijven uitoefenen.

Rechtspleging.

140. Behoudens de bepalingen van het eerstvolgende artikel worden alle publieke ambtenaren van de Kolonies bij 't tot stand komen van de Unie ambtenaren van de Unie.

Bestaande ambtenaren.

141. (1) Zodra mogelijk na totstandkoming van de Unie stelt de Goeverneur-generaal-in-Rade een openbare dienstkommissie aan ten einde voorstellen te doen betreffende de reorganisatie en herregeling zover nodig, van de departementen van de Staatsdienst. De Kommissie maakt tevens voorstellen betreffende de toewijzing van ambtenaren aan de onderscheidene provincies.

Reorganisatie van publieke departementen.

(2) Verslag door de Kommissie gedaan zijnde, wijst de Goeverneur-generaal-in-Rade van tijd tot tijd aan ieder

province such officers as may be necessary for the proper discharge of the services reserved or delegated to it, and such officers on being so assigned shall become officers of the province. Pending the assignment of such officers, the Governor-General-in-Council may place at the disposal of the provinces the services of such officers of the Union as may be necessary.

(3) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board, or to any person holding office under the Board.

Public service  
commission.

142. After the establishment of the Union the Governor-General-in-Council shall appoint a permanent public service commission with such powers and duties relating to the appointment, discipline, retirement, and superannuation of public officers as Parliament shall determine.

Pensions of  
existing  
officers.

143. Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or assigned to that of a province shall be entitled to receive such pension, gratuity, or other compensation as he would have received in like circumstances if the Union had not been established.

Tenure of  
office of  
existing  
officers.

144. Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or assigned to that of a province shall retain all his existing and accruing rights, and shall be entitled to retire from the service at the time at which he would have been entitled by law to retire, and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

Existing  
officers not to  
be dismissed  
for ignorance  
of English  
or Dutch.

145. The services of officers in the public service of any of the Colonies at the establishment of the Union shall not be dispensed with by reason of their want of knowledge of either the English or Dutch language.

Compensation  
to existing  
officers who  
are not  
retained.

146. Any permanent officer of the Legislature of any of the Colonies who is not retained in the service of the Union, or assigned to that of any province, and for whom no provision shall have been made by such Legislature, shall be entitled to such pension, gratuity, or compensation as Parliament may determine.

provincie de ambtenaren aan benodigd voor de behoorlijke afdoening van de diensten aan dezelve voorbehouden of opgedragen en zodanige ambtenaren wanneer aldus toegewezen zullen ambtenaren van de provincie worden. Hangende de toewijzing van zodanige ambtenaren is de Goeverneur-generaal-in-Rade bevoegd de diensten van de benodigde ambtenaren van de Unie ter beschikking van de provincies te stellen.

(3) Het bij dit artikel bepaalde is niet van toepassing op een dienst of departement onder het beheer van de Spoorweg- en Havendirektie of op iemand in dienst van de Direktie.

142. Na 't tot stand komen van de Unie stelt de Goeverneur-generaal-in-Rade een permanente openbare dienst-kommissie aan die nader door 't Parlement vast te stellen bevoegdheden en plichten betrekkelijk de aanstelling, tucht, uitdiensttreding en superannuatie van ambtenaren heeft.

Publieke dienst-kommissie.

143. Een ambtenaar in dienst van een van de Kolonies ten tijde van 't tot stand komen van de Unie, die niet in dienst van de Unie gehouden of in dienst van een provincie gesteld wordt, is gerechtigd tot zodanig pensioen, vergoeding of andere schadeloosstelling als hij in soortgelijke omstandigheden, bij niet-totstandkoming van de Unie ontvangen zou hebben.

Pensioenen van bestaande ambtenaren.

144. Een ambtenaar in dienst van een van de Kolonies ten tijde van 't tot stand komen van de Unie die in dienst van de Unie gehouden of van een provincie gesteld wordt, blijft in 't genot van alle bestaande en opkomende rechten en is bevoegd zijn ontslag te nemen wanneer en met het pensioen of de aftredingstoelage waartoe hij in soortgelijke omstandigheden bij niet-totstandkoming van de Unie wettelijk gerechtigd zou zijn geweest.

Ambtstijd van bestaande ambtenaren.

145. Ambtenaren in dienst van een Kolonie ten tijde van de totstandkoming van de Unie worden niet ontslagen uit hoofde van hun onbekendheid met òf de engelse òf de hollandse taal.

Bestaande ambtenaren niet ontslagen te worden wegens onbekendheid van Engels of Hollands.

146. Een permanent ambtenaar van de Wetgevende Macht van een van de Kolonies die niet in dienst van de Unie gehouden of van de provincie gesteld wordt en voor wie geen voorziening door zodanige Wetgevende Macht gemaakt is, is gerechtigd tot de ontvangst van zodanig pensioen, vergoeding of schadeloosstelling als 't Parlement mocht bepalen.

Kompensatie aan bestaande ambtenaren die niet behouden worden.

Administra-  
tion of native  
affairs, etc.

147. The control and administration of native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the Governor-General-in-Council, who shall exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs, and any lands vested in the Governor or Governor and Executive Council of any Colony for the purpose of reserves for native locations shall vest in the Governor-General-in-Council, who shall exercise all special powers in relation to such reserves as may hitherto have been exercisable by any such Governor or Governor and Executive Council, and no lands set aside for the occupation of natives which cannot at the establishment of the Union be alienated except by an Act of the Colonial Legislature shall be alienated or in any way diverted from the purposes for which they are set apart except under the authority of an Act of Parliament.

Devolution  
on Union of  
rights and  
obligations  
under  
conventions.

148. (1) All rights and obligations under any conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

(2) The provisions of the railway agreement between the Governments of the Transvaal, the Cape of Good Hope, and Natal, dated the second of February, nineteen hundred and nine, shall, as far as practicable, be given effect to by the Government of the Union.

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## PART IX.

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### *New Provinces and Territories.*

Alteration of  
boundaries  
of provinces.

149. Parliament may alter the boundaries of any province, divide a province into two or more provinces, or form a new province out of provinces within the Union, on the petition of the provincial council of every province whose boundaries are affected thereby.

Power to  
admit into  
Union  
territories  
administered  
by British  
South Africa  
Company.

150. The King, with the advice of the Privy Council, may on addresses from the Houses of Parliament of the Union admit into the Union the territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are expressed in the addresses and approved by the King, and the provisions of any Order-in-Council in that



147. Het bestuur en administratie van naturellen-zaken of van zaken die Aziaten door de ganse Unie in het biezonder of onderscheidend aantasten zullen bij de Goeverneur-generaal-in-Rade berusten die al de speciale machten zal uitoefenen met betrekking tot naturellen-administratie die dusver bij de Goeverneurs van de Kolonies berusten, of door hen uitgeoefend als opperhoofden, en alle gronden die bij de Goeverneur of Goeverneur en Uitvoerende Raad van enig Kolonie berusten voor de doeleinden van gereserveerde gronden voor naturellenlokaties, zullen bij de Goeverneur-generaal-in-Rade berusten, die alle speciale machten met betrekking tot zodanige gereserveerde gronden zal uitoefenen als tot dusver door enig zodanig Goeverneur of Goeverneur en Uitvoerende Raad zouden kunnen worden uitgeoefend, en geen gronden voor de okkupatie van naturellen uitgehouden, die ten tijde van het tot stand komen van de Unie niet vervreemd kunnen worden behalve bij een wet van de Koloniale Wetgevende Macht, zullen vervreemd worden of op enigerleiwijze van de doeleinden waarvoor zij gereserveerd werden afgeweken worden behalve op last van een Parlements wet.

Administratie van naturellen-zaken.

148. (1) Alle rechten en verplichtingen ingevolge konventies of overeenkomsten die verbindend zijn voor een Kolonie gaan op de Unie over bij haar totstandkoming.

Overgaan op Unie van rechten en verplichtingen onder konventies.

(2) De bepalingen van de spoorwegovereenkomst tussen de Regeringen van de Transvaal, de Kaap de Goede Hoop en Natal, gedateerd de tweede Februarie negentien honderd en negen, zullen voor zover doenlik door de Regering van de Unie uitgevoerd worden.

## DEEL IX.

### *Nieuwe Provincies en Gewesten.*

149. Het Parlement is bevoegd de grenzen van een provincie te veranderen, een provincie in twee of meer provincies te splitsen of een nieuwe provincie te vormen uit provincies of gewesten in de Unie op een daartoe strekkend verzoekschrift van de Provinciale Raad van ieder provincie wier grenzen daardoor aangetast worden.

Verandering van grenzen van provincies.

150. De Koning is bevoegd met advies van de Geheimraad op voordracht van de Huizen van Parlement van de Unie tot de Unie toe te laten de gewesten bestuurd door de Brits Zuid-Afrika Maatschappij, onder zodanige voorwaarden betrekkelijk vertegenwoordiging en wat dies meer zij, als in de voordracht vervat en door de Koning goedgekeurd zijn, en de bepalingen van een desbetreffende

Macht om in de Unie toe te laten grondgebieden door de Brits Zuid-afrikaanse Maatschappij bestuurd.

behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

Power to  
transfer to  
Union  
government  
of native  
territories.

151. The King, with the advice of the Privy Council, may, on addresses from the Houses of Parliament of the Union, transfer to the Union the government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the protection of His Majesty, and inhabited wholly or in part by natives, and upon such transfer the Governor-General-in-Council may undertake the government of such territory upon the terms and conditions embodied in the Schedule to this Act.

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#### PART X.

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##### *Amendment of Act.*

Amendment  
of Act.

152. Parliament may by law repeal or alter any of the provisions of this Act: Provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered: And provided further that no repeal or alteration of the provisions contained in this section, or in sections *thirty-three* and *thirty-four* (until the number of members of the House of Assembly has reached the limit therein prescribed, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period), or in sections *thirty-five* and *one hundred and thirty-seven*, shall be valid unless the Bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

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#### SCHEDULE.

1. After the transfer of the government of any territory belonging to or under the protection of His Majesty, the Governor-General-in-Council shall be the legislative authority, and may by proclamation make laws for the peace, order, and good government of such territory: Provided that all such laws shall be laid before both Houses of Parliament within seven days after the issue

Order-in-Rade hebben dezelfde kracht, alsof zij door 't Parlement van 't Verenigd Koninkrijk van Groot-Brittanje en Ierland vastgesteld waren.

151. De Koning is bevoegd met advies van de Geheimraad op voordracht van de Huizen van Parlement van de Unie de regering over te dragen aan de Unie van alle gewesten, uitgezonderd de gewesten onder het bestuur van de Brits Zuid-Afrika Maatschappij behorende aan, of onder protektoraat van Zijn Majesteit, welke geheel of ten dele door naturellen bewoond zijn, en na overdracht daarvan is de Goeverneur-generaal-in-Rade bevoegd de regering van zodanig gewest onder de voorwaarden omschreven in de Bijlage van deze Wet over te nemen.

Macht om aan de regering van de Unie de naturellen-gebieden over te dragen.

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## DEEL X.

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### *Wijziging van deze Wet.*

152. Het Parlement is bevoegd bij wet enigen van de bepalingen van deze Wet te herroepen of te veranderen, met dien verstande, dat geen voorziening waarvan de werking voor een bepaalde tijd voorgeschreven is gedurende die tijd herroepen of veranderd wordt, en met dien verstande verder dat geen herroeping of verandering van het bepaalde bij dit artikel of artikels *drie en dertig en vier en dertig* (alvorens het aantal leden van de Volksraad het daarin voorgeschreven getal bereikt of alvorens een tijdperk van tien jaren na 't tot stand komen van de Unie verstreken is, naar gelang welk tijdperk 't langst is) of bij artikels *vijf en dertig en honderd zeven en dertig* van kracht zal zijn, tenzij het wetsontwerp inhoudende de herroeping of verandering, door beide Huizen van Parlement in verenigde vergadering aangenomen en bij de derde lezing door minstens twee-derden van 't gezamenlijk aantal leden van beide Huizen goedgekeurd wordt. Een ter verenigde vergadering aangenomen wetsontwerp wordt geacht behoorlijk door beide Huizen van Parlement aangenomen te zijn.

Wijziging van Wet.

---

## BIJLAGE.

1. Na overdracht van de regering van een gewest behorende aan, of onder protektoraat van Zijn Majesteit is de Goeverneur-generaal-in-Rade het wetgevend gezag en is bevoegd bij proklamatie wetten te maken voor de vrede, orde en goede regering van 't gewest; mits dat alle zodanige wetten worden aan beide Huizen van Parlement voorgelegd binnen zeven dagen na uitvaardiging van

of the proclamation or, if Parliament be not then sitting, within seven days after the beginning of the next session, and shall be effectual unless and until both Houses of Parliament shall by resolutions passed in the same session request the Governor-General-in-Council to repeal the same, in which case they shall be repealed by proclamation.

2. The Prime Minister shall be charged with the administration of any territory thus transferred, and he shall be advised in the general conduct of such administration by a commission consisting of not fewer than three members with a secretary, to be appointed by the Governor-General-in-Council, who shall take the instructions of the Prime Minister in conducting all correspondence relating to the territories, and shall also under the like control have custody of all official papers relating to the territories.

3. The members of the commission shall be appointed by the Governor-General-in-Council, and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled to a fixed annual salary, which shall not be reduced during the continuance of their term of office, and they shall not be removed from office except upon addresses from both Houses of Parliament passed in the same session praying for such removal. They shall not be qualified to become, or to be, members of either House of Parliament. One of the members of the commission shall be appointed by the Governor-General-in-Council as vice-chairman thereof. In case of the absence, illness, or other incapacity of any member of the commission, the Governor-General-in-Council may appoint some other fit and proper person to act during such absence, illness, or other incapacity.

4. It shall be the duty of the members of the commission to advise the Prime Minister upon all matters relating to the general conduct of the administration of, or the legislation for, the said territories. The Prime Minister, or another Minister of State nominated by the Prime Minister to be his deputy for a fixed period, or, failing such nomination, the vice-chairman shall preside at all meetings of the commission, and in case of an equality of votes shall have a casting vote. Two members of the commission shall form a quorum. In case the commission shall consist of four or more members, three of them shall form a quorum.

5. Any member of the commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the commission.

de proklamatie of, het Parlement niet in zitting zijnde, binnen zeven dagen na de aanvang van de eerstvolgende zitting; en zullen van kracht zijn tenzij en tot beide Huizen van Parlement de Goeverneur-generaal-in-Rade bij besluit verzoeken dezelve te herroepen, in welk geval de herroeping bij proklamatie geschiedt.

2. De Eerste Minister is belast met het beheer van een aldus overgedragen gewest en wordt in het beheer bijgestaan door een kommissie bestaande minstens uit drie leden en een sekretaris door de Goeverneur-generaal-in-Rade te worden aangesteld, die de instrukties van de Eerste Minister zal nemen in het voeren van alle korrespondentie met betrekking tot de gewesten, en zal ook onder dergelijk beheer de bewaring van alle officiële stukken met betrekking tot de gewesten hebben.

3. De leden van de kommissie worden door de Goeverneur-generaal-in-Rade aangesteld en bekleden hun bediening gedurende tien jaren, zullende echter het tijdperk telkenmale voor vijf jaren verlengd kunnen worden. Een lid is gerechtigd tot een vast jaargeld, hetwelk gedurende zijn ambtstijd niet vatbaar is voor vermindering en kan slechts op daartoe strekkende voordracht van beide Huizen van Parlement in dezelfde zitting aangenomen ontslagen worden. Een lid is niet bevoegd lid van een Huis van Parlement te zijn of te worden. Een van de leden van de kommissie wordt door de Goeverneur-generaal-in-Rade als Vice-Voorzitter ervan aangesteld. In geval van afwezigheid, ziekte of ander onvermogen van een lid van de kommissie is de Goeverneur-generaal-in-Rade bevoegd een geschikt en bekwaam persoon als plaatsvervanger gedurende de afwezigheid, ziekte of ander onvermogen aan te stellen.

4. De leden van de kommissie zijn verplicht de Eerste Minister van raad te dienen in zake alle tot het beheer van, of tot de wetgeving voor de vermelde gewesten betrekkelijke aangelegenheden. De Eerste Minister of een ander Minister van Staat als zijn plaatsvervanger, door hem benoemd voor een vast tijdperk, of deze ontbrekende, de Vice-Voorzitter, heeft de leiding van alle vergaderingen van de kommissie en een beslissende stem bij staking van stemmen. Twee leden van de kommissie vormen een quorum. In geval de kommissie uit vier of meer leden bestaat vormen drie een quorum.

5. Een lid van de kommissie die het oneens is met de beslissing van de meerderheid, is gerechtigd de redenen voor zijn verschil van mening in de notulen van de kommissie te doen aantekenen.

6. The members of the commission shall have access to all official papers concerning the territories, and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

7. Before coming to a decision on any matter relating either to the administration, other than routine, of the territories or to legislation therefor, the Prime Minister shall cause the papers relating to such matter to be deposited with the secretary to the commission, and shall convene a meeting of the commission for the purpose of obtaining its opinion on such matter.

8. Where it appears to the Prime Minister that the dispatch of any communication or the making of any order is urgently required, the communication may be sent or order made, although it has not been submitted to a meeting of the commission or deposited for the perusal of the members thereof. In any such case the Prime Minister shall record the reasons for sending the communication or making the order and give notice thereof to every member.

9. If the Prime Minister does not accept a recommendation of the commission or proposes to take some action contrary to their advice, he shall state his views to the commission, who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General-in-Council, whose decision in the matter shall be final.

10. When the recommendations of the commission have not been accepted by the Governor-General-in-Council, or action not in accordance with their advice has been taken by the Governor-General-in-Council, the Prime Minister, if thereto requested by the commission, shall lay the record of their dissent from the decision or action taken and of the reasons therefor before both Houses of Parliament, unless in any case the Governor-General-in-Council shall transmit to the commission a minute recording his opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

11. The Governor-General-in-Council shall appoint a resident commissioner for each territory, who shall, in addition to such other duties as shall be imposed on him, prepare the annual estimates of revenue and expenditure for such territory, and forward the same to the secretary to the commission for the consideration of the commission and of the Prime Minister. A proclamation shall be

6. De leden van de kommissie hebben inzage van alle tot de gewesten betrekkelijke officiële stukken en kunnen over elke dezelfde rakende aangelegenheid beraadslagen en de Eerste Minister dienaangaande adviseren.

7. Alvorens een beslissing te nemen betreffende een aangelegenheid, rakende of de administratie, uitgezonderd de routine, van de gewesten, of hun wetgeving, doet de Eerste Minister de tot de aangelegenheid betrekkelijke stukken aan de sekretaris van de kommissie ter hand stellen en belegt een vergadering van de kommissie ter inwinning van haar zienswijze nopens zulke aangelegenheid.

8. Blijkt het aan de Minister dat de verzending van een mededeling of de uitvaardiging van een order dringend vereist is, dan kan de mededeling verzonden of de order uitgevaardigd worden, ofschoon dezelve niet aan een vergadering van de kommissie voorgelegd of ter inzage van de leden ingediend was. In zodanig geval houdt de Eerste Minister aantekening van de redenen voor 't zenden van de mededeling of het uitvaardigen van de order en brengt ze ter kennis van ieder lid.

9. Wanneer de Eerste Minister een voorstel van de kommissie niet aanvaardt of voornemens is een gedragslijn te volgen die strijdt met haar advies, maakt hij zijn zienswijze aan de kommissie bekend, welke desverkiezende de gronden tot staving van haar voorstel of advies in schrift kan doen stellen. Deze akte wordt door de Eerste Minister voorgelegd aan de Goeverneur-generaal-in-Rade wiens beslissing in de zaak afdoende is.

10. Worden de voorstellen van de kommissie niet door de Goeverneur-generaal-in-Rade aanvaard, of, wordt door de Goeverneur-generaal-in-Rade een gedragslijn gevolgd, die niet in overeenstemming is met haar advies, dan legt de Eerste Minister desverzocht door de kommissie de akte, behelzende de redenen van hun niet-instemming met de beslissing of gevolgde gedragslijn voor beide Huizen van Parlement, tenzij in 't een of ander geval de Goeverneur-generaal-in-Rade een mededeling zendt aan de kommissie ten effekte dat de openbaarmaking van de akte en de gronden hoogst nadelig voor het algemeen belang zou zijn.

11. De Goeverneur-generaal-in-Rade stelt een Resident Kommissaris voor elk gewest aan, die benevens de andere plichten hem opgedragen, de jaarlijkse begroting van inkomsten en uitgaven voor 't gewest opmaakt en dezelve aan de sekretaris van de kommissie toezendt ter overweging door de kommissie en de Eerste Minister.

issued by the Governor-General-in-Council, giving to the provisions for revenue and expenditure made in the estimates as finally approved by the Governor-General-in-Council the force of law.

12. There shall be paid into the Treasury of the Union all duties of customs levied on dutiable articles imported into and consumed in the territories, and there shall be paid out of the Treasury annually towards the cost of administration of each territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average amount of the customs revenue of such territory for the three completed financial years last preceding the taking effect of this Act bore to the average amount of the whole customs revenue for all the Colonies and territories included in the Union received during the same period.

13. If the revenue of any territory for any financial year shall be insufficient to meet the expenditure thereof, any amount required to make good the deficiency may, with the approval of the Governor-General-in-Council, and on such terms and conditions and in such manner as with the like approval may be directed or prescribed, be advanced from the funds of any other territory. In default of any such arrangement, the amount required to make good any such deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any territory, such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by any other territory or by the Union Government to make good any deficiency in the revenue of such territory.

14. It shall not be lawful to alienate any land in Basutoland or any land forming part of the native reserves in the Bechuanaland Protectorate and Swaziland from the native tribes inhabiting those territories.

15. The sale of intoxicating liquor to natives shall be prohibited in the territories, and no provision giving facilities for introducing, obtaining, or possessing such liquor in any part of the territories less stringent than those existing at the time of transfer shall be allowed.

16. The custom, where it exists, of holding pitsos or other recognized forms of native assembly shall be maintained in the territories.



Een proklamatie zal door de Goeverneur-generaal-in-Rade uitgevaardigd worden, kracht van wet verlenende aan de voorzieningen voor inkomsten en uitgaven in de door de Goeverneur-generaal-in-Rade finaal goedgekeurde begroting gemaakt.

12. Er zal worden gestort in de Schatkist van de Unie alle doeanerechten geheven op belastbare in de gewesten ingevoerde en verbruikte goederen, zullende telken jare uit de Schatkist tot dekking van de kosten van administratie van elk gewest ter zake van zulke rechten een bedrag worden betaald, hetwelk in dezelfde verhouding staat tot de gezamenlike doeane-inkomsten van de Unie voor ieder dienstjaar als het gemiddeld-bedrag van de doeane-inkomsten van zodanig gewest voor de laatste drie dienstjaren vóór het in werking treden van deze Wet stond tot het gemiddeld bedrag van de gezamenlike doeane-inkomsten voor alle Kolonies en gewesten van de Unie gedurende hetzelfde tijdvak ontvangen.

13. Zijn de inkomsten van een gewest gedurende een dienstjaar ontoereikend om de uitgaven daarvan te dekken, dan kan het tekort met de goedkeuring van de Goeverneur-generaal-in-Rade, en onder zodanige termen en voorwaarden en op zodanige wijze als met de dergelijke goedkeuring gelast of voorgeschreven moge worden, voorgeschoten worden uit de fondsen van enig ander gewest. Bij gebreke van enig zodanige regeling, zal het bedrag benodigd om enig zodanig tekort te dekken door de Regering van de Unie voorgeschoten worden. Indien er een surplus voor enig gewest bestaat, zal zodanig surplus in de eerste plaats besteed worden ter terugbetaling van enige sommen te voren door enig ander gewest of door de Regering van de Unie voorgeschoten, ten einde enig tekort in de inkomsten van zodanig gewest te dekken.

14. Het is verboden grond in Basoetoland of grond dat deel uitmaakt van de naturellen-reserves in 't Protektoraat van Betjoeanaland en in Swaziland uit handen van de naturellenstammen van die gewesten te vervreemden.

15. De verkoop van sterke drank aan naturellen is verboden in de gewesten, en geen bepaling die faciliteiten verleent voor het inbrengen, verkrijgen of bezitten van zodanige drank in enig deel van de gewesten die minder streng is dan die bestaande ten tijde van de overdracht zal toegelaten worden.

16. Bestaande gewoonten om *pitsos* of andere erkende vormen van naturellen-vergadering te houden blijven in de gewesten in stand.

17. No differential duties or imposts on the produce of the territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the territories.

18. There shall be free intercourse for the inhabitants of the territories with the rest of South Africa subject to the laws, including the pass laws, of the Union.

19. Subject to the provisions of this Schedule, all revenues derived from any territory shall be expended for and on behalf of such territory: Provided that the Governor-General-in-Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa, so, however, that that contribution shall not bear a higher proportion to the total cost of such services than that which the amount payable under paragraph 12 of this Schedule from the Treasury of the Union towards the cost of administration of the territory bears to the total customs revenue of the Union on the average of the three years immediately preceding the year for which the contribution is made.

20. The King may disallow any law made by the Governor-General-in-Council by proclamation for any territory within one year from the date of the proclamation, and such disallowance on being made known by the Governor-General by proclamation shall annul the law from the day when the disallowance is so made known.

21. The members of the commission shall be entitled to such pensions or superannuation allowances as the Governor-General-in-Council shall by proclamation provide, and the salaries and pensions of such members and all other expenses of the commission shall be borne by the territories in the proportion of their respective revenues.

22. The rights as existing at the date of transfer of officers of the public service employed in any territory shall remain in force.

23. Where any appeal may by law be made to the King-in-Council from any court of the territories, such appeal shall, subject to the provisions of this Act, be made to the Appellate Division of the Supreme Court of South Africa.

17. Geen differentiële rechten of belastingen worden geheven op de voortbrengselen van de gewesten. De wetten van de Unie rakende doeane en akcijs zullen op de gewesten van toepassing worden gemaakt.

18. Er zal zijn vrij onderling verkeer voor de inwoners van de gewesten met de rest van Zuid-Afrika, onverminderd de wetten, insluitende de paswetten, van de Unie.

19. Behoudens het bepaalde in deze Bijlage worden alle inkomsten van een gewest ten behoeve van zodanig gewest besteed; mits dat de Goeverneur-generaal-in-Rade bevoegd is biezondere voorziening te maken voor de beschikbaarstelling van een deel van zodanige inkomsten als bijdrage tot dekking van de kosten van verdediging en andere diensten door de Unie ten nutte van geheel Zuid-Afrika verricht, op zodanige wijze echter, dat zodanige bijdrage niet in een hoger verhouding zal staan tot de totale onkosten van zodanige diensten dan die, waarin het krachtens paragraaf 12 van deze Bijlage van de Schatkist van de Unie voor de onkosten van het bestuur betaalbaar bedrag, staat tot de totale doeane-inkomsten van de Unie berekend op het gemiddelde van de drie jaren die het jaar waarvoor de bijdrage gedaan werd onmiddellik voorafgingen.

20. De Koning is bevoegd een wet door de Goeverneur-generaal-in-Rade bij proklamatie voor een gewest uitgevaardigd binnen een jaar na datum van de proklamatie te ontzeggen. De ontzegging, door de Goeverneur-generaal bij proklamatie afgekondigd zijnde, stelt de wet buiten werking ingaande op de dag van afkondiging van zodanige ontzegging.

21. De leden van de kommissie zijn gerechtigd tot nader door de Goeverneur-generaal-in-Rade bij proklamatie vast te stellen pensioenen of superannuatie-toelagen. De bezoldiging en pensioenen van de leden en alle andere onkosten van de kommissie worden door de gewesten gedragen naar evenredigheid van hun respektieve inkomsten.

22. De rechten zoals bestaande op de datum van overdracht van ambtenaren van de publieke dienst in dienst in enig gewest zullen van kracht blijven.

23. Een appèl, hetwelk wettelik van een Hof in de gewesten gemaakt kan worden bij de Koning-in-Rade, wordt, behoudens de bepalingen van deze Wet, aange tekend naar de Afdeling van Appèl van 't Hooggerechts-hof van Zuid-Afrika.

24. The Commission shall prepare an annual report on the territories, which shall, when approved by the Governor-General-in-Council, be laid before both Houses of Parliament.

25. All Bills to amend or alter the provisions of this Schedule shall be reserved for the signification of His Majesty's pleasure.

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24. De kommissie maakt een jaarliks verslag op betrekkelijk de gewesten, hetwelk na goedkeuring door de Goeverneur-generaal-in-Rade aan beide Huizen van Parlement voorgelegd wordt.

25. Alle wetsontwerpen ter wijziging of verandering van de bepalingen van deze Bijlage worden ter inwinning van Zijn Majesteits behagen aangehouden.

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