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# THE UNION OF SOUTH AFRICA Government Gazette

## Staatskoerant VAN DIE UNIE VAN SUID-AFRIKA

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KAAPSTAD, 5 JUNIE 1934.

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### GOVERNMENT NOTICE.

The following Government Notice is published for general information.

H. D. J. BODENSTEIN,  
Secretary to the Prime Minister.

Prime Minister's Office,  
Cape Town.

No. 726. 4th June, 1934.

It is notified that His Excellency the Governor-General has been pleased to assent to the following Acts which are hereby published for general information:—

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### GOEWERMENTSKENNISGEWING.

Onderstaande Goewermentskennisgewing word vir algemene informasie gepubliseer.

H. D. J. BODENSTEIN,  
Sekretaris van die Eerste Minister.

Kantoor van die Eerste Minister,  
Kaapstad.

No. 726. 4 Junie 1934.

Hierby word bekend gemaak dat dit Sy Eksellensie die Goewerneur-generaal behaag het om sy goedkeuring te heg aan onderstaande Wette wat hiermee vir algemene informasie gepubliseer word:—

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No. 31, 1934.]

## PRIVATE ACT

### To amend the will of the late Herbert Ainsworth

Preamble.

WHEREAS the late Herbert Ainsworth (hereinafter referred to as "the testator") did, by Clause 7 of his last will, dated the twenty-third day of August, 1919, give all his real and personal estate not otherwise disposed of to the trustees mentioned in the said will upon certain trusts:

AND WHEREAS the said Clause 7 is as follows:—

"7. I give all my real and personal estate not hereinbefore otherwise disposed of to my trustees upon trust to sell, call in and convert into money the same with power to postpone such sale and conversion for so long as they shall think fit without being responsible for loss and out of the proceeds thereof to pay my funeral and testamentary expenses and debts and death, legacy and other duties in respect of my real and personal estate and to stand possessed of the residue (if any) upon trust to pay the same unto the said Arthur Mulliner and Walter Edward Hudson and a Trust Company nominated by them who shall apply the capital amount of such sum and the interest to be derived therefrom in assisting such men of British birth as they may think fit to come to the Union of South Africa from the United Kingdom and settle there as farmers or market gardeners, such assistance to be given in the form of an advance towards the cost of the passage money of any such man and/or towards the purchase price of the land which any such man may purchase and/or towards the purchase price of farming implements or otherwise howsoever as the said Arthur Mulliner and Walter Edward Hudson and the Trust Company nominated by them in their discretion may think fit: Provided, however, that not more than one hundred and fifty pounds shall be advanced to any one such man and provided further that subject as hereinafter provided any advances so made shall be repaid to my said trustees with interest thereon at the rate of four pounds per centum per annum within not more than ten years from the date of the making of such advance. I direct that Arthur Mulliner and Walter Edward Hudson and the said Trust Company nominated by them shall make such advances with or without security and upon such terms for the repayment thereof as they in their absolute and uncontrolled discretion may think fit and my said trustees shall have the right in any case where they think fit of waiving the repayment of such advances or any part thereof. I further direct that Arthur Mulliner and Walter Edward Hudson and the Trust Company nominated by them shall invest such portion of the proceeds of the residue of my real and personal estate not immediately required for making advances in any securities authorised by law in South Africa for trustees to invest in. I further direct that Arthur Mulliner and Walter Edward Hudson and the Trust Company nominated by them shall give good and sufficient publicity to this bequest."

AND WHEREAS the testator died on the thirty-first December, 1920, without having altered the terms of Clause 7 of his said will:

AND WHEREAS the said Arthur Mulliner and Walter Edward Hudson have nominated the South African and General Investment and Trust Company, Limited, as the trust company referred to in the said Clause 7, and that company has accepted the appointment:

AND WHEREAS the trustees referred to in the said will have paid over to the said Arthur Mulliner and Walter Edward Hudson and the South African and General Investment and Trust Company, Limited (who are hereinafter referred to as "the South African Trustees") all the moneys due to be paid to them in pursuance of Clause 7 of the said will:

AND WHEREAS it is expedient that the powers of the South African trustees should be extended so that in addition to the powers conferred upon them by Clause 7 of the said will they should have power to increase the amount which may be

No. 31, 1934.]

# PRIVATE WET

Om die uiterste wil van wyle Herbert Ainsworth te wysig.

**N**ADEMAAL wyle Herbert Ainsworth (hierna genoem „die Aanhel. Erfflater”) deur klousule 7 van sy uiterste wil, gedagteken die drie-en-twintigste dag van Augustus, 1919, al sy roerende en onroerende goed, waaroor nie andersins beskik nie, aan die Trustees vermeld in genoemde uiterste wil onder sekere voorwaardes toevertrou het :

EN NADEMAAL genoemde klousule 7 lui as volg :—

„7. I give all my real and personal estate not hereinbefore otherwise disposed of to my trustees upon trust to sell, call in and convert into money the same with power to postpone such sale and conversion for so long as they shall think fit without being responsible for loss and out of the proceeds thereof to pay my funeral and testamentary expenses and debts and death, legacy and other duties in respect of my real and personal estate and to stand possessed of the residue (if any) upon trust to pay the same unto the said Arthur Mulliner and Walter Edward Hudson and a Trust Company nominated by them who shall apply the capital amount of such sum and the interest to be derived therefrom in assisting such men of British birth as they may think fit to come to the Union of South Africa from the United Kingdom and settle there as farmers or market gardeners, such assistance to be given in the form of an advance towards the cost of the passage money of any such man and/or towards the purchase price of the land which any such man may purchase and/or towards the purchase price of farming implements or otherwise howsoever as the said Arthur Mulliner and Walter Edward Hudson and the Trust Company nominated by them in their discretion may think fit: Provided, however, that not more than one hundred and fifty pounds shall be advanced to any one such man and provided further that subject as hereinafter provided any advances so made shall be repaid to my said trustees with interest thereon at the rate of four pounds per centum per annum within not more than ten years from the date of the making of such advance. I direct that Arthur Mulliner and Walter Edward Hudson and the said Trust Company nominated by them shall make such advances with or without security and upon such terms for the repayment thereof as they in their absolute and uncontrolled discretion may think fit and my said trustees shall have the right in any case where they think fit of waiving the repayment of such advances or any part thereof. I further direct that Arthur Mulliner and Walter Edward Hudson and the Trust Company nominated by them shall invest such portion of the proceeds of the residue of my real and personal estate not immediately required for making advances in any securities authorised by law in South Africa for trustees to invest in. I further direct that Arthur Mulliner and Walter Edward Hudson and the Trust Company nominated by them shall give good and sufficient publicity to this bequest.”

EN NADEMAAL die erfflater op een-en-dertig Desember 1920 oorlede is sonder die terme van klousule 7 van sy genoemde uiterste wil te verander het :

EN NADEMAAL voornoemde Arthur Mulliner en Walter Edward Hudson die South African and General Investment and Trust Company, Limited, benoem het as die trustmaatskappy bedoel in genoemde klousule 7, en daardie maatskappy die benoeming aangeneem het :

EN NADEMAAL die trustees bedoel in genoemde uiterste wil aan voornoemde Arthur Mulliner en Walter Edward Hudson en die South African and General Investment and Trust Company, Limited (hierna genoem „die Suid-Afrikaanse trustees”) alle gelde uitbetaal het wat aan hulle ingevolge klousule 7 van genoemde uiterste wil betaal moes word :

EN NADEMAAL dit raadsaam is dat die bevoegdhede van die Suid-Afrikaanse trustees so uitgebrei word dat benewens die bevoegdhede aan hulle verleen deur klousule 7 van genoemde uiterste wil hulle bevoeg sal wees om die bedrag wat voor-

advanced to any one person whom the trustees are allowed to assist in accordance with the provisions of the said will and this Act from the sum of one hundred and fifty pounds to the sum of five hundred pounds :

AND WHEREAS the said will makes no provision for the resignation of the South African trustees and the appointment of new trustees and it is expedient to make such provision :

AND WHEREAS it is expedient that the costs incurred in connection with this Act should be paid by the South African trustees out of the funds so held by them :

**BE IT THEREFORE ENACTED** by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

Increased powers of South African trustees.

1. Notwithstanding anything to the contrary contained in the said will, the powers conferred upon the South African trustees by Clause 7 of the said will shall be extended so that in addition to the powers conferred upon them by the said clause it shall be lawful for them to increase the amount which may be advanced to any one person whom the trustees are allowed to assist in accordance with the provisions of the said will and this Act from the sum of one hundred and fifty pounds to the sum of five hundred pounds :

Resignation of trustees and appointment of new trustees.

2. (1) Any of the South African trustees may by writing under his hand resign from his office as trustee.

(2) Whenever a vacancy has occurred through any cause whatsoever, the remaining South African trustees or trustee shall from time to time by writing appoint some fit and proper person to fill any such vacancy : Provided that if the South African and General Investment and Trust Company, Limited, should for any cause cease to be a South African trustee, then the remaining trustees or trustee shall appoint some other trust company to act as a trustee in the place of the South African and General Investment and Trust Company, Limited.

Payment of costs of Act.

3. All costs, charges and expenses of and incident to the preparing, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the South African trustees out of the funds in their hands.

Short title.

4. This Act may be cited as the Herbert Ainsworth Settlers Trust Private Act, 1934.

No. 33, 1934.]

## ACT

To amend further the Co-operative Societies Act, 1922.

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

Amendment of section 4 of Act 28 of 1922, as amended by section 3 of Act 2 of 1930.

1. Section *four* of the Co-operative Societies Act, 1922, as amended, is hereby further amended by the addition at the end of sub-section (2) thereof of the words "and 'agricultural implements and machinery' shall include vehicles designed to be drawn by animals or to be mechanically propelled and adapted or intended for the conveyance of persons or goods, and parts and accessories of any such vehicles ; and 'farming requisites' shall include fuel and grease and oil intended for use in connection with any such vehicles".

Short title.

2. This Act shall be known as the Co-operative Societies (Amendment) Act, 1934.



geskiet mag word aan enige persoon wat die trustees veroorloof is om te help ooreenkomstig die bepalings van genoemde uiterste wil en hierdie Wet te verhoog van die som van honderd-vyftig pond tot die som van vyfhonderd pond :

EN NADemaal genoemde uiterste wil geen voorsiening maak vir die bedanking van die Suid-Afrikaanse trustees en die aanstelling van nuwe trustees nie en dit raadsaam is om sodanige voorsiening te maak :

EN NADemaal dit raadsaam is dat die koste gemaak in verband met hierdie Wet deur die Suid-Afrikaanse trustees uit die fondse aldus deur hulle gehou betaal word :

**W**ORD DIT DERHALWE BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg :—

1. Nieteenstaande andersluidende bepalings van genoemde uiterste wil word die bevoegdheid deur klousule 7 van genoemde uiterste wil aan die Suid-Afrikaanse trustees verleen so uitgebrei dat hulle, benewens die bevoegdheid aan hulle deur genoemde klousule verleen, ook die bevoegdheid besit om die bedrag wat voorgeskiet mag word aan enige persoon wat die trustees veroorloof is om te help ooreenkomstig die bepalings van genoemde uiterste wil en hierdie Wet te verhoog van die som van honderd-vyftig pond tot die som van vyfhonderd pond.

Groter bevoegd-  
hede van Suid-  
Afrikaanse  
trustees.

2. (1) 'n Suid-Afrikaanse trustee kan in geskifte onder sy hand bedank vir sy amp as trustee.

Bedanking van  
trustees en aan-  
stelling van nuwe  
trustees.

(2) Wanneer om watter rede ook 'n vakature ontstaan het moet die orige Suid-Afrikaanse trustees of trustee van tyd tot tyd in geskifte 'n geskikte en bevoegde persoon aanstel om enige sodanige vakature te vul : Met die verstande dat, indien die South African and General Investment and Trust Company, Limited, om een of ander rede mog ophou om 'n Suid-Afrikaanse trustee te wees, die orige trustees of trustee 'n ander trustmaatskappy moet aanstel om as 'n trustee op te tree in die plek van die South African and General Investment and Trust Company, Limited.

3. Alle koste, lone en uitgawe van en in verband met die voorbereiding, verkryging en aanneming van hierdie Wet of andersins in verband daarmee, word betaal deur die Suid-Afrikaanse trustees uit die fondse in hulle hande.

Betaling van koste  
van Wet.

4. Hierdie Wet kan aangehaal word as die Herbert Ainsworth Setlaars Trust (Private) Wet, 1934.

Kort titel

No. 33, 1934.]

## WET

Tot verdere wysiging van die „Wet op Koöperatiewe Verenigings, 1922“.

**DIT WORD BEPAAL** deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg :—

1. Artikel vier van die „Wet op Koöperatiewe Verenigings, 1922“, soas gewysig, word hiermee verder gewysig deur aan die end van sub-artikel (2) daarvan by te voeg die woorde „en omvat ,landbouwerktuig en masjinerieën‘ voertuig bedoeld om deur diere getrokken te word of mechanics voortbewogen te word, en ingericht of bestemd voor het vervoer van persone of goederen, en onderdelen en toebehore van zodanige voertuig; en omvat ,boerderijbenodigdheden‘ brandstof en smeergoed en olie bestemd voor gebruik in verband met zodanige voertuig“.

Wysiging van  
artikel 4 van  
Wet 28 van 1922  
soas gewysig  
deur artikel 3 van  
Wet 2 van 1930.

2. Hierdie Wet heet die Wet tot Wysiging van die Wet op Kort titel. Koöperatiewe Verenigings, 1934.

No. 34, 1934.]

# ACT

## To provide for the protection of trust moneys.

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

### Definitions.

#### 1. In this Act—

“Court” means the provincial division of the Supreme Court of South Africa having jurisdiction or any judge thereof and whenever a matter in relation to which this expression is used is within the jurisdiction of a local division of the Supreme Court, the expression “court” includes that local division or any judge thereof.

“Master” means the Master of the Supreme Court of South Africa—

(a) having jurisdiction in respect of the estate or any part of the estate of the settlor, if the written instrument operates by way of testamentary disposition, or

(b) within whose jurisdiction the greater portion of the settled moneys are being administered, if such instrument operates *inter vivos* or if such instrument operates by way of testamentary disposition and no master has any jurisdiction in respect of any part of the estate of the settlor.

“Trustee” means a person appointed by written instrument operating either *inter vivos* or by way of testamentary disposition whereby moneys are settled upon him to be administered by him for the benefit, whether in whole or in part, of any other person.

### Trust deeds to be lodged with Master.

2. Every trustee appointed by written instrument operating *inter vivos* and executed after the commencement of this Act shall lodge such instrument with the Master or a copy thereof certified as correct by a person approved of by the Master or by a notary and shall from time to time lodge with the Master any written variations of such instrument or a copy thereof likewise certified.

### Security.

3. (1) Every trustee appointed by an instrument executed after the commencement of this Act shall, before he enters upon the administration of any settled moneys and thereafter as the Master may require, find security to the satisfaction of the Master for the due and faithful administration of such moneys unless the instrument of settlement directs the Master to dispense with such security and the Master is satisfied that such security should be dispensed with or the court otherwise directs.

(2) The Master shall allow the reasonable costs of finding security to be charged out of the income of the settled moneys or if such income is insufficient for the purpose, out of the settled moneys: Provided that not more than one-half of such costs shall be charged out of the settled moneys.

(3) The security shall be for such an amount as in the circumstances of each particular case appears to the Master reasonable.

(4) If any default is made in the faithful administration of the settled moneys, the Master may proceed to enforce the security or recover from the person in default or from his sureties the actual loss incurred.

(5) A certificate under the hand of the Master shall be *prima facie* evidence of any such loss.

### Powers of the Master.

4. (1) Every trustee shall, whenever he is required so to do by the Master, frame and lodge with the Master an account showing to the Master's satisfaction up to such date as may be specified by the Master the administration and distribution of the settled moneys or the income derived therefrom.

(2) The remedies available in terms of section one hundred of Act No. 24 of 1913 against an executor who fails to lodge his administration account shall *mutatis mutandis* be available against a trustee who fails to lodge with the Master such an account as is referred to in sub-section (1).

No. 34, 1934.]

# WET

## Tot beskerming van trustgelde.

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

### 1. In hierdie Wet beteken—

„Hof”, die regsbevoegde provinsiale afdeling van die Hooggeregshof van Suid-Afrika of ’n regter daarvan en wanneer ’n saak met betrekking waartoe hierdie uitdrukking gebruik word binne die regsgebied van ’n plaaslike afdeling van die Hooggeregshof is, omvat die uitdrukking „hof” daardie plaaslike afdeling of ’n regter daarvan.

„Meester” die Meester van die Hooggeregshof van Suid-Afrika—

(a) wat regsbevoegdheid het ten opsigte van die boedel of enige gedeelte van die boedel van die oormaker, indien die skriftelike dokument by wyse van testamentêre beskikking geld, of

(b) binne wie se regsgebied die grootste gedeelte van die oorgemaakte gelde beheer word, indien sodanige dokument *inter vivos* geld of indien sodanige dokument by wyse van testamentêre beskikking geld en geen Meester het enige regsbevoegdheid ten opsigte van enige gedeelte van die boedel van die oormaker nie.

„Trustee”, ’n persoon aangestel deur ’n skriftelike dokument, geldende hetsy *inter vivos* of by wyse van testamentêre beskikking, waarby gelde aan hom oorgemaak word om deur hom beheer te word, hetsy geheel of gedeeltelik, ten voordele van enige ander persoon.

2. Elke trustee aangestel deur ’n skriftelike dokument *inter vivos* geldende en verly na die inwerkingtreding van hierdie Wet, dien daardie dokument of ’n kopie daarvan vir korrek gesertifiseer deur ’n persoon goedgekeur deur die Meester of deur ’n notaris, by die Meester in en dien van tyd tot tyd enige skriftelike veranderings van so ’n dokument of ’n kopie daarvan, eweso gesertifiseer, by die Meester in.

Trust-aktes by Meester ingedien te word.

3. (1) Elke trustee aangestel deur ’n dokument verly na die inwerkingtreding van hierdie Wet, stel, voordat hy die beheer van enige oorgemaakte gelde aanvaar en daarna soos die Meester mag verlang, sekerheid tot bevrediging van die Meester vir die behoorlike en getroue beheer van daardie gelde, tensy die dokument van oormaking die Meester gelas om van sodanige sekerheid af te sien en die Meester oortuig is dat van sodanige sekerheid afgesien moet word, of die hof anders gelas.

Sekerheid.

(2) Die Meester laat toe dat die redelike koste aan die sekerheidstelling verbonde ten laste kom van die inkomste van die oorgemaakte gelde of indien sodanige inkomste vir die doel onvoldoende is, uit die oorgemaakte gelde: Met die verstande dat nie meer as die helfte van sodanige koste ten laste kom van die oorgemaakte gelde.

(3) Die sekerheid is vir sodanige bedrag as die Meester volgens die omstandighede van elke besondere geval redelik oordeel.

(4) Indien enige versuim begaan word by die getroue beheer van die oorgemaakte gelde, kan die Meester oorgaan tot opvordering van die sekerheidstelling of die werklik gelede verlies op die persoon wat die versuim begaan het of op sy borge verhaal.

(5) ’n Sertifikaat onder die hand van die Meester is *prima facie* bewys van enige sodanige verlies.

4. (1) Elke trustee moet, wanneer die Meester dit van hom verlang, en tot bevrediging van die Meester, ’n rekening opmaak en by die Meester indien tot op sodanige datum as die Meester kan voorskryf, die beheer en verdeling van die oorgemaakte gelde of die inkomste daaruit verkry aantonende.

Bevoegdhede van die Meester.

(2) Die regsmiddels beskikbaar ingevolge artikel honderd van Wet No. 24 van 1913 teen ’n eksekuteur wat in gebreke bly om sy administrasie-rekening in te dien is *mutatis mutandis* beskikbaar teen ’n trustee wat in gebreke bly om by die Meester so’n rekening in te dien as wat in sub-artikel (1) bedoel word.

(3) The Master may at any time require a trustee to deliver to him any books or documents relating to the settled moneys and to answer any enquiry made by him in relation to such moneys and the Master may also, if he thinks fit, apply to the court to examine the trustee on oath, or the Master may cause an independent investigation to be made of the administration of the settled moneys by some fit and proper person appointed by him.

(4) Any costs and expenses incurred in respect of an independent investigation under the provisions of sub-section (3) shall be payable out of the income of the settled moneys or if such income is insufficient for the purpose, out of the settled moneys: Provided that on the application of the Master or any interested party the court may order such costs and expenses as well as the costs of such application to be paid *de bonis propriis* by the trustee administering the settled moneys or by the person at whose instance the investigation took place.

(5) Whenever a trustee is ordered to pay any such costs and expenses *de bonis propriis* and he is unable to pay them in whole or in part, such part of the costs and expenses as cannot be recovered from such trustee shall be paid out of the settled moneys or income derived therefrom, as the court may order.

Records to be kept.

5. Save with the written consent of the Master a trustee shall not destroy any documents whatsoever relating to the settled moneys or the administration or distribution thereof.

Offences.

6. Any trustee who fails to comply with or contravenes any provision of this Act shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds.

Removal of trustee.

7. (1) If a trustee is convicted of any offence under this Act or if the court is of opinion that he has failed to administer the settled moneys diligently or honestly the court may on the application of the Master or any interested party remove him from his office and appoint some other fit and proper person as trustee, subject to such other person finding security in terms of section *three* and may order the trustee so removed to pay the costs of such application *de bonis propriis* or make such other order as to costs as to it may seem meet.

(2) The provisions of sub-section (5) of section *four* shall *mutatis mutandis* apply in respect of any award of costs *de bonis propriis* under sub-section (1) of this section.

Regulations.

8. The Minister of Justice may make regulations prescribing the fees to be paid to the Master in respect of anything required to be done under this Act.

Short title and commencement.

9. This Act may be cited as the Trust Moneys Protection Act, 1934, and shall come into operation on the first day of September, 1934.



(3) Die Meester kan te eniger tyd 'n trustee gelas om aan hom enige boeke of dokumente betreffende die oorgemaakte gelde in te lewer en enige vraag deur hom in verband met sodanige gelde gedoen te beantwoord en die Meester kan ook as hy dit nodig oordeel by die hof aansoek doen om die trustee onder ede te ondervra, of die Meester kan 'n onafhanklike ondersoek laat instel na die beheer van die oorgemaakte gelde deur 'n geskikte en bevoegde persoon deur hom benoem.

(4) Enige koste en uitgawes aangegaan ten opsigte van 'n onafhanklike ondersoek onder die bepalings van sub-artikel (3) is betaalbaar uit die inkomste van die oorgemaakte gelde of indien sodanige inkomste vir die doel onvoldoende is, uit die oorgemaakte gelde: Met die verstande dat die hof op aansoek van die Meester of enige belanghebbende party kan gelas dat sodanige koste en uitgawes sowel as die koste van sodanige aansoek deur die trustee wat die oorgemaakte gelde beheer of deur die persoon op wie se instansie die ondersoek plaasgevind het, *de bonis propriis* betaal word.

(5) Wanneer 'n trustee gelas word om enige sodanige koste en uitgawes *de bonis propriis* te betaal en hy nie in staat is om dit geheel of gedeeltelik te betaal nie, word sodanige deel van die koste en uitgawes as wat nie van sodanige trustee teruggekry kan word nie, uit die oorgemaakte gelde of inkomste daaruit verkry betaal, na gelang die hof gelas.

5. Behalwe met die skriftelike toestemming van die Meester mag 'n trustee geen dokumente hoegenaamd in verband met oorgemaakte gelde of die beheer of verdeling daarvan vernietig nie. Stukke bewaar te word.

6. 'n Trustee wat enige bepaling van hierdie Wet nie nakom nie of oortree is skuldig aan 'n misdryf en by veroordeling strafbaar met 'n boete van hoogstens honderd pond. Misdrywe.

7. (1) Wanneer 'n trustee veroordeel word weens enige misdryf kragtens hierdie Wet of wanneer die hof van oordeel is dat hy die oorgemaakte gelde nie naarstiglik of eerlik beheer het nie kan die hof hom op aansoek van die Meester of enige belanghebbende party uit sy amp ontset en 'n ander geskikte en bevoegde persoon as trustee aanstel, mits sodanige ander persoon sekerheid stel ooreenkomstig artikel drie en kan die trustee also ontset, gelas om die koste van sodanige aansoek *de bonis propriis* te betaal of sodanige ander order betreffende koste soos hy goeddink, maak. Ontsetting van trustee.

(2) Die bepalings van sub-artikel (5) van artikel vier is *mutatis mutandis* van toepassing op enige toekenning van koste *de bonis propriis* kragtens sub-artikel (1) van hierdie artikel.

8. Die Minister van Justisie kan regulasies opstel om die gelde voor te skryf wat aan die Meester betaal moet word ten opsigte van enigiets wat onder hierdie Wet gedoen moet word. Regulasies

9. Hierdie Wet heet die Trustgelde Beskermings Wet, 1934 en tree in werking op die eerste dag van September 1934. Kort titel en inwerkingtreding.

No. 35, 1934.]

# PRIVATE ACT

To amend The South African Association Incorporation Act 1906 (Cape) as amended by The South African Association Incorporation Act (1906) (Cape) Amendment (Private) Act, 1925.

## Preamble

WHEREAS The South African Association (hereinafter referred to as the Association) was incorporated in the first instance by Ordinance No. 6 of 1836 (Cape) and is at present incorporated by Act No. 21 of 1906 (Cape) as amended by Act No. 11 of 1925 :

AND WHEREAS at a general meeting of shareholders of the Association held on the second June, 1933, the directors were authorized by resolution duly passed to introduce a bill to amend the said Act as amended in divers ways approved at the said meeting and in such other ways as the directors might consider desirable and in the interests of the Association :

AND WHEREAS it is expedient in the interests of the Association and of persons dealing with it to amend the said Act as amended so as to extend the powers of the Association and its directors and to provide for the more efficient carrying on of the business of the Association ; and in particular to enlarge the area within which the Association may carry on business and the power of the Association to establish agencies and invest moneys ; to empower the shareholders of the Association to make provision for increasing the capital stock of the Association and for subdividing the shares into which it is divided and for deciding upon the maximum number of shares which may be held by any shareholder ; to empower the directors of the Association to dispose of the share or shares of shareholders who may become insolvent or assign their estates ; to repeal the provision that notice of a proposed transfer of shares should be given to shareholders ; to make fresh provisions regarding meetings of shareholders of the Association, the quorum necessary for the despatch of business, the use of proxies, the method of voting thereat and the procedure thereat ; to regulate anew the qualifications or disqualifications of directors of the Association and the holding of qualification shares and the vacation of office by such directors and the filling of vacancies in the office of directors ; to make fresh provisions regarding the amalgamation of the Association with other institutions carrying on business of a like nature and the acquisition by the Association of the business of such institutions ; to provide for the replacement of defaced, lost or destroyed share certificates ; to give to the Association enlarged powers to act as agents for insurance companies or societies and to nominate its officers for appointment as executors, administrators, curators, trustees, assignees and liquidators and to acquire, mortgage or sell immovable property, and to enter into bonds of security and suretyships and to furnish indemnities ; and to empower the Association to make provision for a pension fund or pension scheme for the benefit of its officials and staff :

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

## Interpretation of terms.

1. In this Act the expression " principal Act " means " The South African Association Incorporation Act, 1906 " (Cape) (Act No. 21 of 1906) and the expression " amending Act " means " The South African Association Incorporation Act, 1906 (Cape) Amendment (Private) Act, 1925 " (Act No. 11 of 1925).

## Substitution of new section for section 4 of Act No. 21 of 1906.

2. Section *four* of the principal Act is hereby repealed and the following section is substituted therefor :

## Area of business of the Association.

" 4. The said Association shall be entitled to carry on its business, and to establish, continue, maintain, carry on and discontinue agencies for the more convenient dispatch of such business, in the Union and in such other part or parts of Africa south of the Equator as may be determined by the shareholders at a meeting duly convened ;

No. 35, 1934.]

# PRIVATE WET

Tot wysiging van "The South African Association Incorporation Act, 1906" (Kaap) soos gewysig deur „De Zuidafrikaanse Assosiatie Inlijwingswet, 1906 (Kaap) Wijzigings (Private) Wet, 1925."

**N**ADEMAAL die Suid-Afrikaanse Assosiasie (hieronder genoem die Assosiasie) in eerste instansie ingelyf is deur Ordonnansie No. 6 van 1836 (Kaap) en nou ingelyf is deur Wet No. 21 van 1906 (Kaap) soos gewysig deur Wet No. 11 van 1925:

Aanhef.

EN NADEMAAL op 'n algemene vergadering van aandeelhouders van die Assosiasie gehou op die tweede Junie 1933 die direkteure by behoorlik genome besluit gemagtig is om 'n wetsontwerp in te dien om genoemde wet soos gewysig, in verskillende opsigte goedgekeur op genoemde vergadering en in sulke ander opsigte as die direkteure wenslik en in die belang van die Assosiasie mog ag, te wysig:

EN NADEMAAL dit raadsaam is in belang van die Assosiasie en van persone daarmee handelende om genoemde wet soos gewysig te wysig ten einde die bevoegdhede van die Assosiasie en van sy direkteure uit te brei en voorsiening te maak vir die meer doeltreffende uitoefening van die bedryf van die Assosiasie; en besonders die gebied waarin die Assosiasie sy bedryf mag uitoefen en die mag van die Assosiasie om agent-skappe in die Unie te stig en geld te belê uit te brei; die aandeelhouders van die Assosiasie te magtig om voorsiening te maak vir die vermeerdering van die kapitaal van die Assosiasie en vir die onderverdeling van die aandele waarin dit verdeel is en te beslis oor die maksimum-getal aandele wat deur enige aandeelhouer gehou mag word; die direkteure van die Assosiasie te magtig om te beskik oor die aandeel of aandele van aandeelhouders wat insolvent mog word of hulle boedels mog afstaan; die bepaling te herroep dat aandeelhouders kennis gegee moet word van 'n voorgenome oordrag van aandele; nuwe bepalinge te maak betreffende vergaderings van aandeelhouders van die Assosiasie, die kworum vereis vir die afhandeling van sake, die gebruik van volmagte, die metode van stemming en die prosedure op sulke vergaderings; opnuut die bevoegdhede of onbevoegdhede van direkteure van die Assosiasie en die besit van kwalifikasie-aandele en die aftreding deur sulke direkteure en die vulling van vakatures in die amp van direkteure te reël; nuwe bepalinge te maak betreffende die amalgamasie van die Assosiasie met ander instellings wat sake van gelyke aard dryf en die verkryging deur die Assosiasie van die bedryf van sulke instellings; voorsiening te maak vir die vervanging van onleesbare, verlore of vernietigde aandeel-sertifikate; die Assosiasie groter bevoegdhede te verleen om as agente vir versekeringsmaatskappye of -genootskappe op te tree en sy beamptes te nomineer vir aanstelling as eksekuteurs, administrateurs, kurators, trustees, boedelredders en likwidateurs en vasgoed te verkry, met verband te beswaar of te verkoop en borgaktes en borgtogte aan te gaan en vrywarings te verleen; en die Assosiasie te magtig om voorsiening te maak vir 'n pensioen-fonds of pensioenskema ten voordele van sy beamptes en staf:

**W**ORD DIT DERHALWE BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. In hierdie Wet word onder die uitdrukking „Hoofwet” verstaan „The South African Association Incorporation Act, 1906” (Kaap) (Wet No. 21 van 1906) en word onder die uitdrukking „wysigende Wet” verstaan „De Zuidafrikaanse Assosiatie Inlijwingswet, 1906 (Kaap) Wijzigings (Private) Wet, 1925” (Wet No. 11 van 1925).

Woordom-skrywing.

2. Artikel vier van die Hoofwet word hierby herroep en deur die volgende artikel vervang:

Vervanging van artikel 4 van Wet No. 21 van 1906 deur nuwe artikel.

„4. The said Association shall be entitled to carry on its business, and to establish, continue, maintain, carry on and discontinue agencies for the more convenient dispatch of such business, in the Union and in such other part or parts of Africa south of the Equator as may be determined by the shareholders at a meeting duly convened;

and may frame, alter and amend bye-laws regulating the carrying on of business at such agencies; the head office of the said Association remaining situate at Cape Town."

Amendment of section 7 of Act No. 21 of 1906.

3. Section seven of the principal Act is hereby amended by the deletion of all the words after the word "trust" where it occurs therein for the first time, and the substitution therefor of the following:

"(1) In the purchase of or advance on the stocks, funds or debentures of the Government of the United Kingdom or of the Union, or any of the Provinces thereof, or of any of the former Colonies or territories now or at any future time forming part of the Union, or of any British Dominion, or of any British State, Colony, Territory or Possession in Africa south of the Equator, or of the Mandated Territory of South West Africa, or in the purchase of or advance upon Union Treasury Bills.

(2) In loans to municipalities, divisional councils, school boards and village management boards in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator, or in the Mandated Territory of South West Africa or in the purchase of or advances upon, the stocks, debentures, securities or mortgages thereof.

(3) In the purchase of or advances upon securities the capital and interest whereof are guaranteed by the Government of the United Kingdom, or of the Union, or of any British Dominion.

(4) Upon first mortgage of immovable property in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator, or in the Mandated Territory of South West Africa.

(5) In the purchase of stock, shares or debentures of or in loans to statutory corporations of a public or semi-public character carrying on business in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator, or in the Mandated Territory of South West Africa.

(6) In advances against pledges of mortgage bonds over immovable property in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator, or in the Mandated Territory of South West Africa: Provided that any such advances shall not exceed two-thirds of the value of the immovable property hypothecated under such mortgage bonds, nor the amount of the debt secured by the pledged mortgage bonds.

(7) In the purchase of immovable or other property, life policies or other securities when necessary for the protection of the interests of the trust or person on whose behalf or in whose interests the moneys are being administered."

Amendment of section 9 of Act No. 21 of 1906.

4. Section nine of the principal Act is hereby amended by the deletion of the following words: "this Colony or any other British Colony, Possession or Territory in South Africa" and the substitution therefor of the following words: "the Union or any British Dominion, State, Colony or Territory in Africa south of the Equator, or the Mandated Territory of South West Africa".

Amendment of section 13 of Act No. 21 of 1906.

5. Section thirteen of the principal Act is hereby amended by—

(a) the deletion of the words "Supreme Court" and the substitution therefor of the words "Court having jurisdiction"; and

(b) the insertion after the word "Master" wherever it occurs of the words "or Assistant Master".

Repeal of section 3 of Act No. 11 of 1925 and insertion of new section 16 in Act No. 21 of 1906.

6. Section three of the amending Act is hereby repealed and the following new section is hereby inserted after section fifteen of the principal Act:

Power to increase capital stock, to subdivide shares and to decide on the maximum number of shares to be held by any one person.

"16. (1) The provisions of section fifteen of this Act as amended by Act No. 11 of 1925 and the provisions of section one of the last mentioned Act notwithstanding, it shall be lawful for the shareholders from time to time by resolution passed at any Meeting—

(a) to increase the capital stock of the said Association to such amount as may be determined by creating such number of additional shares as may be determined at such meeting; and/or

(b) to subdivide the shares into which the capital stock is for the time being divided, to such extent and in such manner as shall be determined at such meeting; and/or



and may frame, alter and amend bye-laws regulating the carrying on of business at such agencies; the head office of the said Association remaining situate at Cape Town."

3. Artikel *sewe* van die Hoofwet word hierby gewysig deur alle woorde na die woord „trust” waar dit daarin vir die eerste keer voorkom te skrap en te vervang deur die volgende: Wysiging van artikel 7 van Wet No. 21 van 1906.

„(1) In the purchase of or advance on the stocks, funds or debentures of the Government of the United Kingdom or of the Union, or any of the Provinces thereof, or of any of the former Colonies or territories now or at any future time forming part of the Union, or of any British Dominion, or of any British State, Colony, Territory or Possession in Africa south of the Equator, or of the Mandated Territory of South West Africa, or in the purchase of or advance upon Union Treasury Bills.

(2) In loans to municipalities, divisional councils, school boards and village management boards in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator or in the Mandated Territory of South West Africa or in the purchase of or advances upon, the stocks, debentures, securities or mortgages thereof.

(3) In the purchase of or advances upon securities the capital and interest whereof are guaranteed by the Government of the United Kingdom, or of the Union, or of any British Dominion.

(4) Upon first mortgage of immovable property in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator or in the Mandated Territory of South West Africa.

(5) In the purchase of stock, shares or debentures of or in loans to statutory corporations of a public or semi-public character carrying on business in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator, or in the Mandated Territory of South West Africa.

(6) In advances against pledges of mortgage bonds over immovable property in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator or in the Mandated Territory of South West Africa: Provided that any such advances shall not exceed two-thirds of the value of the immovable property hypothecated under such mortgage bonds, nor the amount of the debt secured by the pledged mortgage bonds.

(7) In the purchase of immovable or other property, life policies or other securities when necessary for the protection of the interests of the trust or person on whose behalf or in whose interests the moneys are being administered."

4. Artikel *nege* van die Hoofwet word hierby gewysig deur die woorde „this Colony or any other British Colony, Possession or Territory in South Africa” te skrap en te vervang deur die woorde „the Union or any British Dominion, State, Colony or Territory in Africa south of the Equator or the Mandated Territory of South West Africa”.

5. Artikel *dertien* van die Hoofwet word hierby gewysig deur— Wysiging van artikel 13 van Wet No. 21 van 1906.

(a) die woorde „Supreme Court” te skrap en te vervang deur die woorde „Court having jurisdiction”; en

(b) na die woord „Master” oral waar dit voorkom die woorde „or Assistant Master” in te voeg.

6. Artikel *drie* van die wysigende Wet word hierby herroep en die volgende nuwe artikel word hierby na artikel *vyftien* van die Hoofwet ingevoeg: Herroeping van artikel 3 van Wet No. 11 van 1925 en invoeging van nuwe artikel 16 in Wet No. 21 van 1906.

Power to increase capital stock, to subdivide shares and to decide on the maximum number of shares to be held by any one person. „16. (1) The provisions of section *fifteen* of this Act as amended by Act No. 11 of 1925 and the provisions of section *one* of the last mentioned Act notwithstanding, it shall be lawful for the shareholders from time to time by resolution passed at any Meeting—

(a) to increase the capital stock of the said Association to such amount as may be determined by creating such number of additional shares as may be determined at such meeting; and/or  
(b) to subdivide the shares into which the capital stock is for the time being divided, to such extent and in such manner as shall be determined at such meeting; and/or

- (c) to decide upon the maximum number of shares—  
not being less than three—which may be held  
by any one person: Provided that—
- (i) until the shareholders shall have decided  
otherwise the maximum number of shares  
which may be held by any one person  
shall be three;
  - (ii) any shareholder who at the commence-  
ment of the South African Association  
Further Amendment (Private) Act, 1934, is  
entitled to hold shares in excess of three  
by virtue of the subdivision of shares in  
section one of Act No. 11 of 1925 may  
continue to hold such shares, but shall not  
be capable of acquiring any further shares  
unless and until the maximum number  
of shares which may be held by any one  
person in accordance with this section  
exceeds the number of shares held by him;
  - (iii) it shall in any event not be competent  
at any time by resolution as aforesaid  
to deprive any shareholder of the right  
to hold any shares which he lawfully  
held immediately prior to the passing  
of such resolution or any shares into  
which the shares so held by him may  
be subdivided.

(2) No resolution shall be passed in terms of  
sub-section (1) of this section unless notice thereof  
shall have been given by the said Association by  
advertisement in both the official languages of  
the Union in the *Gazette* and in at least two news-  
papers circulating in the Union not less than  
fourteen days before the day appointed for the  
holding of such meeting.

(3) Any additional shares issued by virtue of  
this section shall be subject to the provisions of  
any law governing the said Association, and the  
holders thereof shall enjoy the same privileges  
and be subject to the same liabilities as any other  
shareholder."

Amendment of  
section 18 of Act  
No. 21 of 1906.

7. Section *eighteen* of the principal Act is hereby amended  
by the deletion of the words "at a meeting of the said  
directors held not less than ten days after notice in writing  
of the proposed transfer shall have been given to the share-  
holders".

Substitution of  
new section for  
section 19 of Act  
No. 21 of 1906.

8. Section *nineteen* of the principal Act is hereby repealed  
and the following new section substituted therefor:

Disposal of "19. The share or shares of any shareholder  
shares of who shall either in his private or partnership  
shareholders estate become insolvent, or whether under the  
who have provisions of any statute or otherwise, make an  
become assignment to his creditors, or any of them, shall  
insolvent be delivered to the General Manager and Secretary  
or have of the Association in trust, and the directors of  
assigned the Association shall be entitled to sell the said  
their share or shares as they shall think fit, after having  
estates. duly advertised in both the official languages their  
intention to sell the said share or shares in two  
newspapers circulating in Cape Town and in such  
other newspaper as may be agreed upon between  
the trustee or assignee and the said General Manager  
and Secretary of the Association, or, failing agree-  
ment, as may be determined by the Master or  
Assistant Master having jurisdiction and the  
nett proceeds thereof, after deduction of com-  
mission and expenses, shall be paid to the trustee  
or assignee as the case may be of such shareholder  
and such share or shares shall be transferred in  
the manner prescribed in the last preceding section."

Repeal of section  
22 of Act No.  
21 of 1906.

9. Section *twenty-two* of the principal Act is hereby repealed.

Amendment of  
section 25 of Act  
No. 21 of 1906.

10. Section *twenty-five* of the principal Act is hereby  
amended by the deletion of the words "general meeting" and  
the substitution therefor of the words "meeting of share-  
holders".

Substitution of  
new section for  
section 26 of Act  
No. 21 of 1906.

11. Section *twenty-six* of the principal Act is hereby  
repealed and the following new section substituted therefor:

Procedure at "26. (1) No meeting of shareholders shall be  
meetings of duly constituted or shall be competent to enter  
shareholders upon any question or business unless a quorum of

- (c) to decide upon the maximum number of shares—  
not being less than three—which may be held  
by any one person: Provided that—
- (i) until the shareholders shall have decided  
otherwise the maximum number of shares  
which may be held by any one person  
shall be three;
  - (ii) any shareholder who at the commence-  
ment of the South African Association  
Further Amendment (Private) Act, 1934, is  
entitled to hold shares in excess of three  
by virtue of the subdivision of shares in  
section one of Act No. 11 of 1925 may  
continue to hold such shares, but shall not  
be capable of acquiring any further shares  
unless and until the maximum number  
of shares which may be held by any one  
person in accordance with this section  
exceeds the number of shares held by him.
  - (iii) it shall in any event not be competent  
at any time by resolution as aforesaid  
to deprive any shareholder of the right  
to hold any shares which he lawfully held  
immediately prior to the passing of such  
resolution or any shares into which the  
shares so held by him may be sub-divided.
- (2) No resolution shall be passed in terms of  
sub-section (1) of this section unless notice thereof  
shall have been given by the said Association by  
advertisement in both the official languages of the  
Union in the *Gazette* and in at least two newspapers  
circulating in the Union not less than fourteen  
days before the day appointed for the holding of  
such meeting.
- (3) Any additional shares issued by virtue of  
this section shall be subject to the provisions of  
any law governing the said Association, and the  
holders thereof shall enjoy the same privileges  
and be subject to the same liabilities as any other  
shareholder."

7. Artikel *agtien* van die Hoofwet word hierby gewysig Wysiging van  
deur die woorde „at a meeting of the said directors held not less artikel 18 van  
than ten days after notice in writing of the proposed transfer Wet No. 21 van  
shall have been given to the shareholders" te skrap. 1906.

8. Artikel *negentien* van die Hoofwet word hierby herroep Vervanging van  
en deur die volgende nuwe artikel vervang: artikel 19 van Wet  
Disposal of „19. The share or shares of any shareholder No. 21 van 1906  
shares of, who shall either in his private or partnership deur nuwe  
shareholders estate become insolvent, or whether under the artikel.  
who have provisions of any statute or otherwise, make an  
become insolvent or have assignment to his creditors, or any of them, shall  
assigned their be delivered to the general manager and secretary  
estates. of the Association in trust, and the directors of  
the Association shall be entitled to sell the said  
share or shares as they shall think fit, after having  
duly advertised in both the official languages their  
intention to sell the said share or shares in two  
newspapers circulating in Cape Town and in such  
other newspaper as may be agreed upon between  
the trustees or assignee and the said General  
Manager and Secretary of the Association, or,  
failing agreement, as may be determined by the  
Master or Assistant Master having jurisdiction  
and the nett proceeds thereof, after deduction of  
commission and expenses, shall be paid to the trustee  
or assignee as the case may be of such shareholder  
and such share or shares shall be transferred in  
the manner prescribed in the last preceding section."

9. Artikel *twee-en-twintig* van die Hoofwet word hierby Herroeping van  
herroep. artikel 22 van Wet  
No. 21 van 1906.

10. Artikel *vyf-en-twintig* van die Hoofwet word hierby Wysiging van  
gewysig deur die woorde „general meeting" te skrap en te artikel 25 van  
vervang deur die woorde „meeting of shareholders". Wet No. 21 van  
1906.

11. Artikel *ses-en-twintig* van die Hoofwet word hierby Vervanging van  
herroep en deur die volgende nuwe artikel vervang: artikel 26 van Wet  
No. 21 van 1906

Procedure at "26. (1) No meeting of shareholders shall be  
meetings of duly constituted or shall be competent to enter  
shareholders upon any question or business unless a quorum of  
artikel.

ten shareholders shall be present: Provided that if within thirty minutes of the time appointed for any meeting a quorum be not present the meeting if convened upon the requisition of shareholders shall be dissolved, and in any other case shall stand adjourned to the same day and hour in the next week at the same place (unless such day be a public holiday when it shall stand adjourned to the next business day following such public holiday) and the shareholders then present shall form a quorum (notwithstanding that their number may be less than ten) and may transact the business for which the meeting was called.

(2) Voting at all meetings of shareholders shall be either by a show of hands or by poll, and on all questions irrespective of the manner of voting the majority shall bind the minority unless otherwise provided by these presents.

(3) Unless otherwise summarily determined by the meeting on a show of hands every question submitted to a meeting shall be decided in the first instance by a show of hands.

(4) In case the voting shall in the first instance have been by a show of hands, forthwith upon the chairman's declaration as to the result of such voting the shareholders holding or representing by proxy at least one-fourth of the shares represented at the meeting may demand a poll.

(5) Unless a poll is duly demanded, a declaration by the chairman at a meeting of shareholders that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority, and an entry to that effect in the minute book of the Association shall be sufficient evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(6) If a meeting determines that the voting on any question shall be by poll or if a poll is demanded as aforesaid, it shall be taken in such manner and at such place and time as the chairman of the meeting directs, and either immediately or after an interval or an adjournment not exceeding ten days. The chairman shall appoint scrutineers to declare the result of the poll, and the result of the poll which shall be recorded in the minutes and certified by the chairman shall be deemed to be the resolution of the meeting at which the poll was demanded.

(7) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on a question of adjournment shall be taken at the meeting without adjournment.

(8) The demand for a poll may be withdrawn before the adjournment of the meeting at which it has been demanded.

(9) The right to demand a poll shall be open as aforesaid and available at any meeting of shareholders held under this Act."

Substitution of new section for section 28 of Act No. 21 of 1908.

12. Section *twenty-eight* of the principal Act is hereby repealed and the following new section substituted therefor:

Voting at meetings of shareholders. "28. (1) Voting at all meetings of shareholders shall be regulated by the following provisions:—  
(a) On a show of hands every shareholder present in person shall have one vote.

(b) In case of a poll every shareholder present in person or by proxy shall have one vote for each share held by him: Provided that no shareholder shall be allowed to vote by proxy unless he resides at a distance of twenty-five miles or more from the place of the meeting.

(2) Subject to the provisions of paragraph (b) of sub-section (1) of this section votes may be given either personally or by proxy, but no person shall be appointed a proxy who is not a shareholder and qualified to vote. The instrument appointing



ten shareholders shall be present: Provided that if within thirty minutes of the time appointed for any meeting a quorum be not present the meeting if convened upon the requisition of shareholders shall be dissolved, and in any other case shall stand adjourned to the same day and hour in the next week at the same place (unless such day be a public holiday when it shall stand adjourned to the next business day following such public holiday) and the shareholders then present shall form a quorum (notwithstanding that their number may be less than ten) and may transact the business for which the meeting was called.

(2) Voting at all meetings of shareholders shall be either by a show of hands or by poll, and on all questions irrespective of the manner of voting the majority shall bind the minority unless otherwise provided by these presents.

(3) Unless otherwise summarily determined by the meeting on a show of hands every question submitted to a meeting shall be decided in the first instance by a show of hands.

(4) In case the voting shall in the first instance have been by a show of hands, forthwith upon the chairman's declaration as to the result of such voting the shareholders holding or representing by proxy at least one-fourth of the shares represented at the meeting may demand a poll.

(5) Unless a poll is duly demanded, a declaration by the chairman at a meeting of shareholders that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority, and an entry to that effect in the minute book of the Association shall be sufficient evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(6) If a meeting determines that the voting on any question shall be by poll or if a poll is demanded as aforesaid, it shall be taken in such manner and at such place and time as the chairman of the meeting directs, and either immediately or after an interval or an adjournment not exceeding ten days. The chairman shall appoint scrutineers to declare the result of the poll, and the result of the poll which shall be recorded in the minutes and certified by the chairman shall be deemed to be the resolution of the meeting at which the poll was demanded.

(7) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on a question of adjournment shall be taken at the meeting without adjournment.

(8) The demand for a poll may be withdrawn before the adjournment of the meeting at which it has been demanded.

(9) The right to demand a poll shall be open as aforesaid and available at any meeting of shareholders held under this Act."

12. Artikel *agt-en-twintig* van die Hoofwet word hierby herroep en deur die volgende nuwe artikel vervang:

Voting at meetings of shareholders. „28. (1) Voting at all meetings of shareholders shall be regulated by the following provisions:—

(a) On a show of hands every shareholder present in person shall have one vote.

(b) In case of a poll every shareholder present in person or by proxy shall have one vote for each share held by him: Provided that no shareholder shall be allowed to vote by proxy unless he resides at a distance of twenty-five miles or more from the place of the meeting.

(2) Subject to the provisions of paragraph (b) of sub-section (1) of this section votes may be given either personally or by proxy, but no person shall be appointed a proxy who is not a shareholder and qualified to vote. The instrument appointing

Vervanging van artikel 28 van Wet No. 21 van 1906 deur nuwe artikel.

a proxy shall be in writing under the hand of the appointer or his attorney, save that the holder of a general power of attorney from a shareholder or power of substitution thereunder whereby he is authorized to attend or vote at meetings of shareholders in any company shall if he himself be a shareholder in the Association be entitled to attend and vote on behalf of his principal.

(3) The instrument appointing a proxy and the authority (if any) under which it is signed and any general power of attorney and power of substitution (if any) under which the mandatory being himself a shareholder proposes to vote for his principal, or a copy of any such power duly certified to the satisfaction of the chairman of the meeting shall be deposited at the office of the Association not less than forty-eight hours before the time for holding the meeting at which the person named in such instrument of proxy or general power of attorney or power of substitution proposes to vote. Any general power of attorney and general power of substitution thereunder so deposited shall be returned to the mandatory after the termination of the meeting in connection with which it is deposited if a certified copy or copies thereof be filed with the Association but any special power of attorney or of substitution so deposited shall be retained by the Association.

(4) Anything to the contrary herein contained notwithstanding the executor of any deceased shareholder, the trustee or assignee of any shareholder whose estate shall have been sequestrated as insolvent or assigned whether under statute or otherwise, or the curator of any shareholder who shall be under any legal disability shall be allowed to vote by proxy through any other shareholder qualified to vote, the preceding provisions of this section to apply *mutatis mutandis* to such instrument of proxy and the authority under which it is given.

(5) No shareholder shall be entitled to hold more than five proxies."

Amendment of section 30 of Act No. 21 of 1906.

13. Section *thirty* of the principal Act is hereby amended by the addition at the end thereof of the following:

"provided further that it shall be competent for the shareholders by resolution passed at a meeting duly convened—

- (a) to increase the number of directors to such number as the shareholders may determine;
- (b) to provide for the appointment of alternate directors to act in place of directors who may be unable to act on account of absence or illness, but so that no person shall be appointed as an alternate director who is not qualified to be appointed as a director."

Amendment of section 31 of Act No. 21 of 1906.

14. Section *thirty-one* of the principal Act is hereby amended by the deletion therefrom of the word "special" and the substitution therefor of the word "annual".

Amendment of section 32 of Act No. 21 of 1906.

15. Section *thirty-two* of the principal Act is hereby amended by the deletion of the words "thirtieth day of April" and the substitution therefor of the words "date of the annual meeting in June or July"; by the deletion where it occurs thereafter of the word "General" and the substitution therefor of the word "Annual" and by the deletion of the word "April" and the substitution therefor of the words "June or July".

Repeal of section 33 of Act No. 21 of 1906 and of section 4 of Act No. 11 of 1925, and substitution of new section in Act No. 21 of 1906.

16. Section *thirty-three* of the principal Act and section *four* of the amending Act are hereby repealed and the following new section is substituted for section *thirty-three* of the principal Act:

Qualifications and disqualifications of directors.

"33. (1) No person shall be capable of being nominated, appointed or of continuing to hold office as a director of the Association unless he is or remains the holder of three shares therein (the said three shares being hereinafter in this Act referred to as "qualification shares"); and every director shall forthwith after his election deposit with the General Manager and Secretary at the head office of the Association, his certificate or certificates for the number of shares aforesaid in the Association, to be held during such director's term of office, and any director not depositing such

a proxy shall be in writing under the hand of the appointer or his attorney, save that the holder of a general power of attorney from a shareholder or power of substitution thereunder whereby he is authorized to attend or vote at meetings of shareholders in any company shall if he himself be a shareholder in the Association be entitled to attend and vote on behalf of his principal.

(3) The instrument appointing a proxy and the authority (if any) under which it is signed and any general power of attorney and power of substitution (if any) under which the mandatory being himself a shareholder proposes to vote for his principal, or a copy of any such power duly certified to the satisfaction of the chairman of the meeting shall be deposited at the office of the Association not less than forty-eight hours before the time for holding the meeting at which the person named in such instrument of proxy or general power of attorney or power of substitution proposes to vote. Any general power of attorney and general power of substitution thereunder so deposited shall be returned to the mandatory after the termination of the meeting in connection with which it is deposited if a certified copy or copies thereof be filed with the Association but any special power of attorney or of substitution so deposited shall be retained by the Association.

(4) Anything to the contrary herein contained notwithstanding the executor of any deceased shareholder; the trustee or assignee of any shareholder whose estate shall have been sequestrated as insolvent or assigned whether under statute or otherwise, or the curator of any shareholder who shall be under any legal disability shall be allowed to vote by proxy through any other shareholder qualified to vote, the preceding provisions of this section to apply *mutatis mutandis* to such instrument of proxy and the authority under which it is given.

(5) No shareholder shall be entitled to hold more than five proxies."

13. Artikel *dertig* van die Hoofwet word hierby gewysig deur aan die end daarvan die volgende by te voeg:

„provided further that it shall be competent for the shareholders by resolution passed at a meeting duly convened—

- (a) to increase the number of directors to such number as the shareholders may determine;
- (b) to provide for the appointment of alternate directors to act in place of directors who may be unable to act on account of absence or illness, but so that no person shall be appointed as an alternate director who is not qualified to be appointed as a director”.

Wysiging van artikel 30 van Wet No. 21 van 1906.

14. Artikel *een-en-dertig* van die Hoofwet word hierby gewysig deur die woord „special” daaruit te skrap en te vervang deur die woord „annual”.

Wysiging van artikel 31 van Wet No. 21 van 1906.

15. Artikel *twee-en-dertig* van die Hoofwet word hierby gewysig deur die woorde „thirtieth day of April” te skrap en te vervang deur die woorde „date of the annual meeting in June or July”; deur die woord „General” waar dit daarna in daardie artikel voorkom te skrap en te vervang deur die woord „Annual” en deur die woord „April” te skrap en te vervang deur die woorde „June or July”.

Wysiging van artikel 32 van Wet No. 21 van 1906.

16. Artikel *drie-en-dertig* van die Hoofwet en artikel *vier* van die wysigende Wet word hierby herroep en artikel *drie-en-dertig* van die Hoofwet word vervang deur die volgende nuwe artikel:

Qualifications and disqualifications of directors.

„33. (1) No person shall be capable of being nominated, appointed or of continuing to hold office as a director of the Association unless he is or remains the holder of three shares therein (the said three shares being hereinafter in this Act referred to as “qualification shares”); and every director shall forthwith after his election deposit with the general manager and secretary at the head office of the Association, his certificate or certificates for the number of shares aforesaid in the Association, to be held during such director's term of office, and any director not depositing such

Herroeping van artikel 33 van wet No. 21 van 1906 en van artikel 4 van Wet No. 11 van 1925 en vervanging deur nuwe artikel in Wet No. 21 van 1906.

shares upon request made in writing by the General Manager and Secretary or withdrawing or receiving the same shall be disqualified from office as a director and shall *ipso facto* vacate his office.

(2) No person shall be capable of being nominated, appointed or of continuing to hold office as a director of the Association who holds any office of profit under the Government of the Union or under any Provincial Administration, or who is an unrehabilitated insolvent; nor shall any two shareholders, carrying on business as co-partners in any firm or who are related to each other, or one of whom is related to any co-partner of the other in any firm, in or within the second degree of consanguinity or affinity both be capable of being nominated, appointed and/or of continuing to be directors of the Association: Provided that if any director enter into partnership with any other director or with anyone related to another director in or within the second degree of consanguinity or affinity or become related in or within the second degree of affinity to another director during their respective tenures of office that one of them who has been later elected as a director, or re-elected as a director (as the case may be) shall vacate his office unless the other of them resigns forthwith."

Amendment of  
section 36 of Act  
No. 21 of 1906.

17. Section *thirty-six* of the principal Act is hereby amended by the deletion of the words "the aforesaid Port Elizabeth agency, or received by the said" where they occur in the last sentence of the said section, and the substitution therefor of the words "any agency, or received by any".

Amendment of  
section 35 of Act  
No. 21 of 1906.

18. Section *thirty-five* of the principal Act is hereby amended by the addition at the end thereof of the following:

"provided that should the shareholders resolve at a meeting duly convened to increase the number of directors to more than five, it shall be competent for the said shareholders to increase the quorum of directors to such number as the said shareholders may determine".

Amendment of  
section 37 of Act  
No. 21 of 1906.

19. Section *thirty-seven* of the principal Act is hereby amended—

- (a) by the deletion of the word "share" wherever it occurs therein and the substitution therefor of the words "qualification shares or any of them";
- (b) by the deletion of the words "four consecutive months" and the substitution therefor of the words "one month";
- (c) by the deletion of the word "shareholders" where it first occurs and the substitution therefor of the word "directors";
- (d) by the deletion of the words "so as to cease to be a shareholder".

Amendment of  
section 39 of Act  
No. 21 of 1906.

20. Section *thirty-nine* of the principal Act is hereby amended—

- (a) by the insertion of the words "in person or by proxy" after the words "the shareholders present", and
- (b) by the deletion at the end of the said section of the words "provided further that no director shall be allowed to resign or be capable of resigning until the shareholders at some general or special meeting shall have consented thereto".

Amendment of  
section 40 of Act  
No. 21 of 1906.

21. Section *forty* of the principal Act is hereby amended by the deletion of all the words after the word "following" and the substitution therefor of the following:

"(1) In the purchase of or advance on the stocks, funds or debentures of the Government of the United Kingdom or of the Union, or any of the Provinces thereof, or of any of the former colonies or territories now or at any future time forming part of the Union, or of any British Dominion, or of any British State, Colony, Territory or Possession in Africa south of the Equator, or of the Mandated Territory of South West Africa, or in the purchase of or advance upon Union Treasury Bills.

(2) In loans to municipalities, divisional councils, school boards and village management boards in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator, or in the Mandated Territory of South West Africa, or in the purchase of or advances upon the stocks, debentures, securities or mortgages thereof.

(3) In the purchase of or advances upon securities the capital and interest whereof are guaranteed by the Govern-



shares upon request made in writing by the general manager and secretary or withdrawing or receiving the same shall be disqualified from office as a director and shall *ipso facto* vacate his office.

(2) No person shall be capable of being nominated, appointed or of continuing to hold office as a director of the Association who holds any office of profit under the Government of the Union or under any Provincial Administration, or who is an unrehabilitated insolvent; nor shall any two shareholders, carrying on business as co-partners in any firm or who are related to each other, or one of whom is related to any co-partner of the other in any firm, in or within the second degree of consanguinity or affinity both be capable of being nominated, appointed and/or of continuing to be directors of the Association: Provided that if any director enter into partnership with any other director or with anyone related to another director in or within the second degree of consanguinity or affinity or become related in or within the second degree of affinity to another director during their respective tenures of office that one of them who has been later elected as a director, or re-elected as a director (as the case may be) shall vacate his office unless the other of them resigns forthwith."

17. Artikel *ses-en-dertig* van die Hoofwet word hierby gewysig deur die woorde „the aforesaid Port Elizabeth agency, or received by the said” waar hulle in die laaste volsin van genoemde artikel voorkom te skrap en te vervang deur die woorde „any agency, or received by any”.

Wysiging van artikel 36 van Wet No. 21 van 1906.

18. Artikel *vyf-en-dertig* van die Hoofwet word hierby gewysig deur aan die end daarvan die volgende by te voeg: „provided that should the shareholders resolve at a meeting duly convened to increase the number of directors to more than five, it shall be competent for the said shareholders to increase the quorum of directors to such number as the said shareholders may determine”.

Wysiging van artikel 35 van Wet No. 21 van 1906.

19. Artikel *sewen-en-dertig* van die Hoofwet word hierby gewysig—

Wysiging van artikel 37 van Wet No. 21 van 1906.

- (a) deur die woord „share” oral waar dit daarin voorkom te skrap en te vervang deur die woorde „qualification shares or any of them”;
- (b) deur die woorde „four consecutive months” te skrap en te vervang deur die woorde „one month”;
- (c) deur die woord „shareholders” waar dit vir die eerste keer voorkom te skrap en te vervang deur die woord „directors”;
- (d) deur die woorde „so as to cease to be a shareholder” te skrap.

20. Artikel *negen-en-dertig* van die Hoofwet word hierby gewysig—

Wysiging van artikel 38 van Wet No. 21 van 1906.

- (a) deur na die woorde „the shareholders present” in te voeg die woorde „in person or by proxy”; en
- (b) deur by die end van genoemde artikel die woorde „provided further that no director shall be allowed to resign or be capable of resigning until the shareholders at some general or special meeting shall have consented thereto” te skrap.

21. Artikel *veertig* van die Hoofwet word hierby gewysig deur alle woorde na die woord „following” te skrap en deur die volgende te vervang:

Wysiging van artikel 40 van Wet No. 21 van 1906.

„(1) In the purchase of or advance on the stocks, funds or debentures of the Government of the United Kingdom or of the Union, or any of the Provinces thereof, or of any of the former colonies or territories now or at any future time forming part of the Union, or of any British Dominion, or of any British State, Colony, Territory or Possession in Africa south of the Equator, or of the Mandated Territory of South West Africa, or in the purchase of or advance upon Union Treasury Bills.

(2) In loans to municipalities, divisional councils, school boards and village management boards in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator or in the Mandated Territory of South West Africa, or in the purchase of or advances upon, the stocks, debentures, securities or mortgages thereof.

(3) In the purchase of or advances upon securities the capital and interest whereof are guaranteed by the Govern-

ment of the United Kingdom or of the Union or of any British Dominion.

(4) Upon first mortgage of immovable property in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator, or in the Mandated Territory of South West Africa.

(5) In the purchase of stock, shares or debentures of or in loans to approved incorporated bodies or associations carrying on business in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator, or in the Mandated Territory of South West Africa.

(6) In the purchase of immovable or other property, life policies or other securities when necessary or desirable in furtherance of the interests of the said Association.

(7) On deposit or current account, with or without interest, in any bank, joint stock company or society or association carrying on business in the United Kingdom or in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator, or in the Mandated Territory of South West Africa.

(8) In advances upon pledge of inheritances in estates being administered by the said Association, or of life policies in approved life insurance companies or societies.

(9) In advances upon such other security as the directors may deem good and sufficient: Provided that no advances upon such other security shall exceed one-half of the fair market value thereof as ascertained and that no advance shall be made upon mining scrip.

(10) In manner prescribed in section *nine* of this Act: Provided that funds referred to in sections *seven* and *eleven* of this Act shall not be so invested unless such investment is authorized by the persons appointing the Association or by the provisions of section *seven* of this Act."

Amendment of section 42 of Act No. 21 of 1906.

22. Section *forty-two* of the principal Act is hereby amended by the deletion of the words "a special" and the substitution therefor of the words "an annual".

Amendment of section 44 of Act No. 21 of 1906.

23. Section *forty-four* of the principal Act is hereby amended by the deletion therefrom of the word "général" wherever it occurs therein.

Amendment of section 45 of Act No. 21 of 1906.

24. Section *forty-five* of the principal Act is hereby amended—

(a) by the deletion of the word "general" where it occurs therein for the first and second time before the word "meeting" and the substitution therefor of the word "annual";

(b) by the deletion of the word "April" and the substitution therefor of the words "June or July";

(c) by the deletion of the words "in general" wherever they occur therein and the substitution therefor of the words "at the annual";

Amendment of section 46 of Act No. 21 of 1906.

25. Section *forty-six* of the principal Act is hereby amended by the deletion of the words "the said Port Elizabeth" and the substitution therefor of the word "any".

Amendment of section 48 of Act No. 21 of 1906.

26. Section *forty-eight* of the principal Act is hereby amended by the deletion of the word "general".

Amendment of section 52 of Act No. 21 of 1906.

27. Section *fifty-two* of the principal Act is hereby amended by the deletion of the word "general" wherever it occurs therein immediately before the word "meeting";

Substitution of new section for section 53 of Act No. 21 of 1906.

28. Section *fifty-three* of the principal Act is hereby repealed and the following new section substituted therefor:

Insurance agency. "53. The said Association may act as agents of any insurance company or society for the purpose of insuring against any loss and risk whatsoever, and shall for this purpose keep a separate book of accounts, showing the commissions earned by them as agents of such company or society."

Amendment of section 55 of Act No. 21 of 1906.

29. Section *fifty-five* of the principal Act is hereby amended by the deletion of all words after the words "provided that" and the substitution therefor of the following: "no such amalgamation or acquisition shall be valid unless three-fourths of the shareholders present and voting at such meeting in person approve of the same, or, in case the voting be by poll in accordance with section *twenty-six* of this Act, unless three-fourths of the votes of shareholders present in person or by proxy and voting at such meeting by poll signify approval of the same."

ment of the United Kingdom or of the Union or of any British Dominion.

(4) Upon first mortgage of immovable property in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator or in the Mandated Territory of South West Africa.

(5) In the purchase of stock, shares or debentures of or in loans to approved incorporated bodies or associations carrying on business in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator or in the Mandated Territory of South West Africa.

(6) In the purchase of immovable or other property, life policies or other securities when necessary or desirable in furtherance of the interests of the said Association.

(7) On deposit or current account, with or without interest, in any bank, joint stock company or society or association carrying on business in the United Kingdom or in the Union or in any British Dominion, State, Colony, Territory or Possession in Africa south of the Equator or in the Mandated Territory of South West Africa.

(8) In advances upon pledge of inheritances in estates being administered by the said Association, or of life policies in approved life insurance companies or societies.

(9) In advances upon such other security as the directors may deem good and sufficient: Provided that no advances upon such other security shall exceed one-half of the fair market value thereof as ascertained and that no advance shall be made upon mining scrip.

(10) In manner prescribed in section *nine* of this Act: Provided that funds referred to in sections *seven* and *eleven* of this Act shall not be so invested unless such investment is authorized by the persons appointing the Association or by the provisions of section *seven* of this Act."

22. Artikel *twee-en-veertig* van die Hoofwet word hierby gewysig deur die woorde „a special” te skrap en te vervang deur die woorde „an annual”. Wysiging van artikel 42 van Wet No. 21 van 1906.

23. Artikel *vier-en-veertig* van die Hoofwet word hierby gewysig deur die woord „general”, oral waar dit daarin voorkom, te skrap. Wysiging van artikel 44 van Wet No. 21 van 1906.

24. Artikel *vyf-en-veertig* van die Hoofwet word hierby gewysig— Wysiging van artikel 45 van Wet No. 21 van 1906.

(a) deur die woord „general” waar dit daarin vir die eerste en tweede maal voor die woord „meeting” voorkom te skrap en te vervang deur die woord „annual”;

(b) deur die woord „April” te skrap en te vervang deur die woorde „June or July”;

(c) deur die woorde „in general” oral waar hulle daarin voorkom te skrap en te vervang deur die woorde „at the annual”.

25. Artikel *ses-en-veertig* van die Hoofwet word hierby gewysig deur die woorde „the said Port Elizabeth” te skrap en te vervang deur die woord „any”. Wysiging van artikel 46 van Wet No. 21 van 1906.

26. Artikel *agt-en-veertig* van die Hoofwet word hierby gewysig deur die woord „general” te skrap. Wysiging van artikel 48 van Wet No. 21 van 1906.

27. Artikel *twee-en-vyftig* van die Hoofwet word hierby gewysig deur die woord „general”, oral waar dit daarin onmiddellik voor die woord „meeting” voorkom, te skrap. Wysiging van artikel 52 van Wet No. 21 van 1906.

28. Artikel *drie-en-vyftig* van die Hoofwet word hierby herroep en vervang deur die volgende nuwe artikel:  
Insurance agency. 53. The said Association may act as agents of any insurance company or society for the purpose of insuring against any loss and risk whatsoever, and shall for this purpose keep a separate book of accounts, showing the commissions earned by them as agents of such company or society.” Vervanging van artikel 53 van Wet No. 21 van 1906 deur nuwe artikel.

29. Artikel *vyf-en-vyftig* van die Hoofwet word hierby gewysig deur alle woorde na die woorde „provided that” te skrap en te vervang deur die volgende woorde: „no such amalgamation or acquisition shall be valid unless three-fourths of the shareholders present and voting at such meeting in person approve of the same, or, in case the voting be by poll in accordance with section *twenty-six* of this Act, unless three-fourths of the votes of shareholders present in person or by proxy and voting at such meeting by poll signify approval of the same”. Wysiging van artikel 55 van Wet No. 21 van 1906.

Insertion of new  
sections in Act  
No. 21 of 1906

30. The principal Act is hereby amended by the insertion after section *fifty-six* of the following new sections (the existing section *fifty-seven* becoming section *fifty-nine*):

Replace-  
ment of  
defaced,  
lost or  
destroyed  
share cer-  
tificates.

"57. If any share certificate be worn out or defaced, then upon production thereof to the directors they may order the same to be cancelled, and may issue a new certificate in lieu thereof, and if any certificate be lost or destroyed, then upon proof thereof to the satisfaction of the directors, and on such indemnity as the directors deem adequate being given and compliance with any law relating to lost or destroyed certificates, a new certificate in lieu thereof shall be given to the party entitled to such lost or destroyed certificate.

Additional  
powers of  
Association.

58. The said Association shall—

- (a) be entitled to furnish any Master or Assistant Master of a Court with the necessary bond of security or suretyship for the due administration of any estate or moneys entrusted to it or to its directors or officials;
- (b) indemnify any director who shall sign or may have signed as surety in connection with the due administration of any such estate or moneys;
- (c) be entitled to nominate any officer of the Association for appointment as executor, administrator, curator, trustee, assignee or liquidator under the provisions of any law, and to accept liability for the acts as such executor, administrator, curator, trustee, assignee or liquidator of any officer so nominated;
- (d) have power to purchase and hold immovable property in its own name for any purpose and to mortgage and sell such immovable property; and
- (e) be entitled to establish and support or aid in the establishment and support of and to contribute towards any pension scheme or pension fund which may have been established or which may be established for the benefit of the officials and staff of the said Association."

Short title.

31. This Act may be cited as the South African Association Further Amendment (Private) Act, 1934.



30. Die Hoofwet word hierby gewysig deur invoeging na artikel *ses-en-vyftig* van die volgende nuwe artikels, waardeur die bestaande artikel *sewen-en-vyftig* artikel *negen-en-vyftig* word:

Invoeging van  
nuwe artikels in  
Wet No. 21 van  
1908.

Replace-  
ment of  
defaced,  
lost or  
destroyed  
share cer-  
tificates.

57. If any share certificate be worn out or defaced, then upon production thereof to the directors they may order the same to be cancelled, and may issue a new certificate in lieu thereof, and if any certificate be lost or destroyed, then upon proof thereof to the satisfaction of the directors, and on such indemnity as the directors deem adequate being given and compliance with any law relating to lost or destroyed certificates, a new certificate in lieu thereof shall be given to the party entitled to such lost or destroyed certificate.

Additional  
powers of  
Association.

58. The said Association shall—

- (a) be entitled to furnish any Master or Assistant Master of a Court with the necessary bond of security or suretyship for the due administration of any estate or moneys entrusted to it or to its directors or officials;
- (b) indemnify any director who shall sign or may have signed as surety in connection with the due administration of any such estate or moneys;
- (c) be entitled to nominate any officer of the Association for appointment as executor, administrator, curator, trustee, assignee or liquidator under the provisions of any law, and to accept liability for the acts as such executor, administrator, curator, trustee, assignee or liquidator of any officer so nominated;
- (d) have power to purchase and hold immovable property in its own name for any purpose and to mortgage and sell such immovable property; and
- (e) be entitled to establish and support or aid in the establishment and support of and to contribute towards any pension scheme or pension fund which may have been established or which may be established for the benefit of the officials and staff of the said Association."

31. Hierdie Wet kan aangehaal word as die Suid-Afrikaanse Kort titel. Assosiasie Verdere Wysigings (Private) Wet, 1934.

No. 36, 1934.]

## ACT

To amend the Precious and Base Metals Act, 1908 (Transvaal) and other mineral laws in force in the Union, and the Townships Amendment Act, 1908 (Transvaal).

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

Amendment of definition of "base metals" and "precious metals" in Act 35 of 1908.

1. (1) The definition of the expression "base metals" in section three of the Precious and Base Metals Act, 1908 (Transvaal), which, as amended from time to time, is hereinafter referred to as the principal Act, is hereby deleted and the following new definition substituted therefor:—

"'base metal' shall mean any mineral substance other than precious metals or precious stones as defined in section one hundred and sixteen of the Precious Stones Act, 1927 (Act No. 44 of 1927) or water".

(2) The definition of the expression "precious metals" in section three of the principal Act is hereby deleted and the following new definition substituted therefor:—

"'precious metals' shall mean—

(a) gold, silver, platinum, iridium and all other metals of the platinum group and the ores of all the said metals;

(b) any other metal declared by the Governor-General by proclamation in the *Gazette* in pursuance of resolutions of both Houses of Parliament to be a precious metal for the purposes of this Act and the regulations made thereunder:

Provided that in the event of such metals being mined in combination with a base metal the provisions of section one hundred and twenty shall apply".

Substitution of section 10 of Act 35 of 1908.

2. Section ten of the principal Act is hereby repealed and the following new section substituted therefor:—

"Prospecting 10. (1) Subject to the other provisions of this Chapter, prospecting for precious metals under the authority of a prospecting permit may be carried on—

(a) on all proclaimed Crown land not held under mining title and not reserved from pegging, notwithstanding anything in section twenty-seven contained;

(b) on all unproclaimed Crown land in respect of which the exclusive right of prospecting has not accrued to the owner, licensee or lessee of that land under the provisions of section two of the Reserved Minerals Development Act, 1926 (Act No. 55 of 1926) or which does not fall under the provisions of section sixteen of this Act.

(2) The Minister may, by notice in the *Gazette*, withdraw any Crown land from public prospecting, and he may, by like notice, attach conditions to public prospecting in respect of any particular Crown land, and he may, in respect of Crown land which is not open to public prospecting, grant or call for tenders for the right to prospect, in which case a lease shall be entered into between the Minister and the grantee or successful tenderer, as the case may be, prescribing the conditions under which such prospecting may be carried out.

(3) Where any private land was, prior to the first day of January, 1934, thrown open to public prospecting, such land shall, as from the first day of July, 1934, be withdrawn from public prospecting.

(4) The withdrawal of any land from public prospecting under this section shall not affect any right accrued by virtue of any lawful discovery of precious or base metals made before the date of such withdrawal, but all further public prospecting on such land shall cease: Provided that any

No. 36, 1934.]

# WET

Tot wysiging van die „Precious and Base Metals Act, 1908” (Transvaal) en van ander in die Unie geldende wette op minerale en van die „Townships Amendment Act, 1908” (Transvaal).

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. (1) Die omskrywing van die uitdrukking „base metals” in artikel drie van die „Precious and Base Metals Act, 1908” (Transvaal), wat, soas van tyd tot tyd gewysig, hieronder die Hoofwet genoem word, word hiermee geskrap en deur die volgende nuwe omskrywing vervang: Wysiging van omskrywing van „base metals” en „precious metals” in Wet 35 van 1908.

„‘base metal’ shall mean any mineral substance other than precious metals or precious stones as defined in section *one hundred and sixteen* of the Precious Stones Act, 1927 (Act No. 44 of 1927) or water”.

(2) Die omskrywing van die uitdrukking „precious metals” in artikel drie van die Hoofwet word hiermee geskrap en deur die volgende nuwe omskrywing vervang:—

„‘precious metals’ shall mean—

(a) gold, silver, platinum, iridium and all other metals of the platinum group and the ores of all the said metals;

(b) any other metal declared by the Governor-General by proclamation in the *Gazette* in pursuance of resolutions of both Houses of Parliament to be a precious metal for the purposes of this Act and the regulations made thereunder:

Provided that in the event of such metals being mined in combination with a base metal the provisions of section *one hundred and twenty* shall apply”.

2. Artikel tien van die Hoofwet word hiermee herroep en deur die volgende nuwe artikel vervang:— Vervanging van artikel 10 van Wet 35 van 1908.

„Prospecting on Crown land. 10. (1) Subject to the other provisions of this Chapter, prospecting for precious metals under the authority of a prospecting permit may be carried on—

(a) on all proclaimed Crown land not held under mining title and not reserved from pegging, notwithstanding anything in section *twenty-seven* contained;

(b) on all unproclaimed Crown land in respect of which the exclusive right of prospecting has not accrued to the owner, licensee or lessee of that land under the provisions of section *two* of the Reserved Minerals Development Act, 1926 (Act No. 55 of 1926) or which does not fall under the provisions of section *sixteen* of this Act.

(2) The Minister may, by notice in the *Gazette*, withdraw any Crown land from public prospecting, and he may, by like notice, attach conditions to public prospecting in respect of any particular Crown land, and he may, in respect of Crown land which is not open to public prospecting, grant or call for tenders for the right to prospect, in which case a lease shall be entered into between the Minister and the grantee or successful tenderer, as the case may be, prescribing the conditions under which such prospecting may be carried out.

(3) Where any private land was, prior to the first day of January, 1934, thrown open to public prospecting, such land shall, as from the first day of July, 1934, be withdrawn from public prospecting.

(4) The withdrawal of any land from public prospecting under this section shall not affect any right accrued by virtue of any lawful discovery of precious or base metals made before the date of such withdrawal, but all further public prospecting on such land shall cease: Provided that any

Insertion of new  
section 12bis in  
Act 35 of 1908.

3. The following new section is hereby inserted in the principal Act after section *twelve* :

"Prospecting  
on private  
land.

person lawfully prospecting upon the date of such withdrawal under a current prospecting permit may continue to prospect until the expiration of the period covered by such permit".

12bis. (1) Whenever the holder of the mineral rights over any private land intends to permit prospecting under section *eleven* or intends himself to prospect under section *twelve*, he or any person authorized by him under section *eleven* to prospect and to obtain a lease under this section, as the case may be, may make application to the Minister for a prospecting and mining lease. Such application shall be considered by the Mining Leases Board established by section *one* of the Transvaal Mining Leases and Mineral Law Amendment Act, 1918 (Act No. 30 of 1918) which may, if it is satisfied that large expenditure will be involved in proving the existence of precious metals in payable quantities on such land, recommend to the Minister to grant a prospecting and mining lease thereover in which lease shall be stated the rights to which the applicant will become entitled under sections *twenty* and *twenty bis* and the terms and conditions upon which such rights will be granted in the event of its being shown to the satisfaction of the Minister that precious metals exist in payable quantities.

(2) Notwithstanding anything in sections *eleven* and *twelve* contained, whenever the holder of the mineral rights over any private land does not avail himself of the right of prospecting granted to him thereby, or having availed himself of such right does not carry on or cause to be carried on prospecting on such land to the satisfaction of the Minister, and has failed to comply with a notice caused to be given to him by the Minister, calling upon him within a period of six months adequately to prospect such land, the Minister may, after considering any representations made by the holder, if in the opinion of the Government Mining Engineer, adequate prospecting operations may prove the existence of precious metals in payable quantities on such land, and on such conditions as may be recommended by the Mining Leases Board, grant a prospecting lease or a prospecting and mining lease to any person applying therefor, who can show that his financial resources are adequate for the proper prospecting and development of the precious metals on such land, or he may call for tenders for the right to obtain such a lease, in which case the provisions of sub-sections (2), (3) and (4) of section *three* of the said Act No. 30 of 1918, shall *mutatis mutandis* apply: Provided that the consideration payable to the Government for any such lease shall include a rental for the prospecting period, to be fixed by the Mining Leases Board, the whole of which rental shall be paid over to the holder of the mineral rights, and adequate provision shall be made in any such lease for payment of compensation by the lessee for any surface damage caused by the exercise of his prospecting rights, which shall be assessed by the Mining Leases Board and paid over to the owner of the land.

(3) Any lessee under sub-section (2) shall during the prospecting period and before commencing prospecting operations, take out at the Office of the Mining Commissioner, in accordance with section *fourteen*, a prospecting permit in the form prescribed by regulation for prospecting on private land: Provided that if in the opinion of the Mining Leases Board it is desirable to grant a prospecting and mining lease under sub-section (2) and not a prospecting lease only, then the provisions of section *twenty ter* relating to the grant of a mining lease shall apply and in that case a prospecting period shall be fixed in any such lease during which period the rental, provided for in sub-section (2) for the benefit of the holder of the



person lawfully prospecting upon the date of such withdrawal under a current prospecting permit may continue to prospect until the expiration of the period covered by such permit".

3. Die volgende nuwe artikel word hiermee na artikel twaalf in die Hoofwet ingevoeg:—

„Prospect-  
ing on  
private  
land.

Invoeging van  
nuwe artikel 12bis  
in Wet 35 van  
1908.

12bis. (1) Whenever the holder of the mineral rights over any private land intends to permit prospecting under section *eleven* or intends himself to prospect under section *twelve*, he or any person authorized by him under section *eleven* to prospect, and to obtain a lease under this section as the case may be, may make application to the Minister for a prospecting and mining lease. Such application shall be considered by the Mining Leases Board established by section *one* of the Transvaal Mining Leases and Mineral Law Amendment Act, 1918 (Act No. 30 of 1918) which may, if it is satisfied that large expenditure will be involved in proving the existence of precious metals in payable quantities on such land, recommend to the Minister to grant a prospecting and mining lease thereover in which lease shall be stated the rights to which the applicant will become entitled under sections *twenty* and *twenty bis* and the terms and conditions upon which such rights will be granted in the event of its being shown to the satisfaction of the Minister that precious metals exist in payable quantities.

(2) Notwithstanding anything in sections *eleven* and *twelve* contained, whenever the holder of the mineral rights over any private land does not avail himself of the right of prospecting granted to him thereby, or having availed himself of such right does not carry on or cause to be carried on prospecting on such land to the satisfaction of the Minister, and has failed to comply with a notice caused to be given to him by the Minister, calling upon him within a period of six months adequately to prospect such land, the Minister may, after considering any representations made by the holder, if in the opinion of the Government Mining Engineer adequate prospecting operations may prove the existence of precious metals in payable quantities on such land, and on such conditions as may be recommended by the Mining Leases Board, grant a prospecting lease or a prospecting and mining lease to any person applying therefor, who can show that his financial resources are adequate for the proper prospecting and development of the precious metals on such land, or he may call for tenders for the right to obtain such a lease, in which case the provisions of sub-sections (2), (3) and (4) of section *three* of the said Act No. 30 of 1918, shall *mutatis mutandis* apply: Provided that the consideration payable to the Government for any such lease shall include a rental for the prospecting period, to be fixed by the Mining Leases Board, the whole of which rental shall be paid over to the holder of the mineral rights, and adequate provision shall be made in any such lease for payment of compensation by the lessee for any surface damage caused by the exercise of his prospecting rights, which shall be assessed by the Mining Leases Board and paid over to the owner of the land.

(3) Any lessee under sub-section (2) shall during the prospecting period and before commencing prospecting operations, take out at the Office of the Mining Commissioner, in accordance with section *fourteen*, a prospecting permit in the form prescribed by regulation for prospecting on private land: Provided that if in the opinion of the Mining Leases Board it is desirable to grant a prospecting and mining lease under sub-section (2) and not a prospecting lease only, then the provisions of section *twenty ter* relating to the grant of a mining lease shall apply and in that case a prospecting period shall be fixed in any such lease during which period the rental, provided for in sub-section (2) for the benefit of the holder

mineral rights, shall be paid in lieu of the rent provided for in section *twenty ter*, which shall become payable only at the expiration of the prospecting period or any extension thereof approved by the Mining Leases Board.

(4) Whenever, in the opinion of the Minister, personal service of the notice referred to in sub-section (2) is, for any reason whatever, impracticable, such notice shall be published in the *Gazette*.

Amendment of  
section 15 of Act  
35 of 1908.

4. Section *fifteen* of the principal Act is hereby amended—  
(a) by the addition, at the end of sub-section (3), of the following words:—

“Provided that the Mining Commissioner may, if he is satisfied that the prospector intends and is in a position adequately to prospect additional prospecting areas required by him, grant him written permission to peg such areas; and provided further that such prospector shall take out a prospecting permit for each additional prospecting area to be pegged under such permission;” and

- (b) by the addition of the following new sub-section:—

“(4) The Mining Commissioner shall serve upon any prospector who fails to prospect to his satisfaction a notice calling upon him, within a period of three months, adequately to prospect his prospecting area, and on failure to comply with such notice, his prospecting area shall be declared forfeited by the Mining Commissioner, and such area shall not be repegged by the same prospector within a period of twelve months from the date of such forfeiture”.

Amendment of  
section 16 of Act  
35 of 1908.

5. Section *sixteen* of the principal Act is hereby amended—

- (i) by the addition at the end of sub-section (1) of the following words “or on any land upon which prospecting, pegging or digging is prohibited by this Act or any other law: Provided that if any person had the right to mine at any place which was subsequently converted into a locality referred to in this sub-section, he shall not merely by reason of that conversion be debarred from prospecting at that place;” and

- (ii) by the deletion of sub-section (2) and the substitution therefor of the following new sub-section:—

“(2) A prospecting permit shall not authorize the holder to prospect upon—

- (a) 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 building, without the written permission of the owner thereof;

- (b) any land excluded from the operation of the Reserved Minerals Development Act, 1926 (Act No. 55 of 1926) by section *eighteen* thereof, without the written permission of the Minister;

- (c) any land which is either used or has been reserved in connection with any scheme of irrigation or in any Crown forest, or which is used or reserved for any Government or public purpose, without the written permission of the Minister;

- (d) any Crown land which has been withdrawn from public prospecting under the provisions of section *ten*, without the written permission of the Minister”.

Substitution of  
section 19 of Act  
35 of 1908.

6. Section *nineteen* of the principal Act is hereby repealed and the following section substituted therefor:—

“Grant of  
mining  
leases to  
discoverers  
on Crown  
land.

19. (1) When a discovery of precious metals in respect of Crown land not held under Crown grant, lease or licence has been notified in accordance with section *seventeen* and such discovery has been sufficiently developed to satisfy the Minister that there are reasonable grounds for believing that precious metals exist in payable quantities at the place of discovery, the prospector, provided that he has duly complied with the provisions of section *fifteen*, shall be entitled on his application to obtain a mining lease of the prospecting area upon which the discovery was made, or if, in the opinion of the Mining Leases Board, such area is insufficient to form a workable mining proposition, the Minister may, on the recommendation of the said Board, grant a lease

of the mineral rights, shall be paid in lieu of the rent provided for in section *twenty ter*, which shall become payable only at the expiration of the prospecting period or any extension thereof approved by the Mining Leases Board.

(4) Whenever, in the opinion of the Minister, personal service of the notice referred to in sub-section (2) is, for any reason whatever, impracticable, such notice shall be published in the *Gazette*".

4. Artikel *vyftien* van die Hoofwet word hiermee gewysig—

(a) deur die volgende woorde aan die end van sub-artikel

(3) by te voeg :—

„Provided that the Mining Commissioner may, if he is satisfied that the prospector intends and is in a position adequately to prospect additional prospecting areas required by him, grant him written permission to peg such areas; and provided further that such prospector shall take out a prospecting permit for each additional prospecting area to be pegged under such permission;” en

(b) deur die volgende nuwe sub-artikel daaraan toe te voeg :—

„(4) The Mining Commissioner shall serve upon any prospector who fails to prospect to his satisfaction a notice calling upon him, within a period of three months, adequately to prospect his prospecting area, and on failure to comply with such notice, his prospecting area shall be declared forfeited by the Mining Commissioner, and such area shall not be repegged by the same prospector within a period of twelve months from the date of such forfeiture”.

5. Artikel *sestien* van die Hoofwet word hiermee gewysig—

(i) deur die volgende woorde aan die end van sub-artikel

(1) by te voeg : „or on any land upon which prospecting, pegging or digging is prohibited by this Act or any other law: Provided that if any person had the right to mine at any place which was subsequently converted into a locality referred to in this sub-section, he shall not merely by reason of that conversion be debarred from prospecting at that place;” en

(ii) deur sub-artikel (2) te skrap en te vervang deur die volgende nuwe sub-artikel :—

„(2) A prospecting permit shall not authorize the holder to prospect upon—

(a) 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 building, without the written permission of the owner thereof;

(b) any land excluded from the operation of the Reserved Minerals Development Act, 1926 (Act No. 55 of 1926) by section *eighteen* thereof, without the written permission of the Minister;

(c) any land which is either used or has been reserved in connection with any scheme of irrigation or in any Crown forest, or which is used or reserved for any Government or public purpose, without the written permission of the Minister;

(d) any Crown land which has been withdrawn from public prospecting under the provisions of section *ten* without the written permission of the Minister”.

6. Artikel *negentien* van die Hoofwet word hiermee herroep en deur die volgende artikel vervang :—

„Grant of mining leases to discoverers on Crown land.

19. (1) When a discovery of precious metals in respect of Crown land not held under Crown grant, lease or licence has been notified in accordance with section *seventeen* and such discovery has been sufficiently developed to satisfy the Minister that there are reasonable grounds for believing that precious metals exist in payable quantities at the place of discovery, the prospector, provided that he has duly complied with the provisions of section *fifteen*, shall be entitled on his application to obtain a mining lease of the prospecting area upon which the discovery was made, or if, in the opinion of the Mining Leases Board, such area is insufficient to form a workable mining proposition, the Minister may, on the recommendation of the said Board,

Wysiging van artikel 15 van Wet 35 van 1908.

Wysiging van artikel 16 van Wet 35 van 1908.

Vervanging van artikel 19 van Wet 35 van 1908.

of an additional area which is contiguous to the prospecting area and which will be worked in conjunction therewith as a joint area : Provided that no lease shall be granted under this section until notice of the intention to grant such lease has been published in the *Gazette*, calling upon any person affected thereby to lodge objections with the Mining Commissioner within thirty days after the date of such publication, which objection shall be heard by the Mining Commissioner on a date to be fixed by him.

(2) The Mining Commissioner shall notify the prospector of the decision of the Minister under sub-section (1) and the prospector shall, within three months of such notification or such longer period as the Mining Commissioner may allow, furnish a diagram or a sketch plan approved by the Mining Commissioner, of the area to be leased as agreed upon, and as soon as possible thereafter, a mining lease shall be executed between the prospector and the Minister, on such conditions as the Minister may determine after negotiation with the prospector. If the prospector does not comply with the terms of the said notice or extended notice, as the case may be, he shall be deemed to have abandoned his right under this section. Every such lease shall *inter alia* provide for the adequate working of the leased area by the lessee to the satisfaction of the Minister, and for the payment in advance by the registered holder of the lease to the Mining Commissioner of a rent of two shillings and sixpence per morgen per month for every morgen or fraction thereof included in the leased area and if an additional area has been granted to the prospector in accordance with sub-section (1), the lease may further provide for the payment, in addition to taxation, of such share of the profits to the Government in respect of the whole area leased as the Mining Leases Board may recommend in such proportion as the additional area bears to the joint area.

(3) The share of any profits payable to the State under any such lease shall be on a scale fixed in each case by the Minister on the recommendation of the Mining Leases Board after negotiation with the prospector : Provided that the State shall not participate in any profits until the lessee shall first have been allowed in the determination of such profits a capital allowance, calculated from the last day of the month in which such capital was expended, equal to five per cent. per annum on the amount of unredeemed capital expenditure incurred by the lessee and in the case of cession his successors in title, up to the date of the commencement of the production of precious metals, and subsequent thereto, any such expenditure which is provided for in the lease or which although not so provided is capital expenditure approved of by the Mining Leases Board for the purpose of the capital allowance incurred with the object of ensuring the more advantageous exploitation of the mining area.

(4) The method of calculating the capital allowance referred to in sub-section (3) for the purpose of determining the State's share of the profits shall be in accordance with the illustration set forth in the Fourth Schedule to this Act.

(5) In this section and in the said Schedule capital expenditure shall have the meaning defined in section *twenty-three* of the Income Tax Act, 1925 (Act No. 40 of 1925).

(6) The said capital allowance shall not accrue to the lessee for any period during which he has not carried on mining operations in accordance with the terms of his lease.

(7) The said capital allowance shall not be taken into account in determining the ratio of profits expressed as a percentage of revenue whenever such ratio forms a factor in the scale of profits payable to the State.

(8) In fixing the aforesaid scale regard shall be paid to all the circumstances under which



grant a lease of an additional area which is contiguous to the prospecting area and which will be worked in conjunction therewith as a joint area: Provided that no lease shall be granted under this section until notice of the intention to grant such lease has been published in the *Gazette*, calling upon any person affected thereby to lodge objections with the Mining Commissioner within thirty days after the date of such publication, which objection shall be heard by the Mining Commissioner on a date to be fixed by him.

(2) The Mining Commissioner shall notify the prospector of the decision of the Minister under sub-section (1) and the prospector shall, within three months of such notification or such longer period as the Mining Commissioner may allow, furnish a diagram or a sketch plan approved by the Mining Commissioner, of the area to be leased as agreed upon, and as soon as possible thereafter, a mining lease shall be executed between the prospector and the Minister, on such conditions as the Minister may determine after negotiation with the prospector. If the prospector does not comply with the terms of the said notice or extended notice, as the case may be, he shall be deemed to have abandoned his right under this section. Every such lease shall *inter alia* provide for the adequate working of the leased area by the lessee to the satisfaction of the Minister, and for the payment in advance by the registered holder of the lease to the Mining Commissioner of a rent of two shillings and sixpence per morgen per month for every morgen or fraction thereof included in the leased area and if an additional area has been granted to the prospector in accordance with sub-section (1), the lease may further provide for the payment, in addition to taxation, of such share of the profits to the Government in respect of the whole area leased as the Mining Leases Board may recommend in such proportion as the additional area bears to the joint area.

(3) The share of any profits payable to the State under any such lease shall be on a scale fixed in each case by the Minister on the recommendation of the Mining Leases Board after negotiation with the prospector: Provided that the State shall not participate in any profits until the lessee shall first have been allowed in the determination of such profits a capital allowance, calculated from the last day of the month in which such capital was expended, equal to five per cent. per annum on the amount of unredeemed capital expenditure incurred by the lessee and in the case of cession his successors in title up to the date of the commencement of the production of precious metals, and subsequent thereto, any such expenditure which is provided for in the lease or which although not so provided is capital expenditure, approved of by the Mining Leases Board for the purpose of the capital allowance incurred with the object of ensuring the more advantageous exploitation of the mining area.

(4) The method of calculating the capital allowance referred to in sub-section (3) for the purpose of determining the State's share of the profits shall be in accordance with the illustration set forth in the Fourth Schedule to this Act.

(5) In this section and in the said Schedule capital expenditure shall have the meaning defined in section *twenty-three* of the Income Tax Act, 1925 (Act No. 40 of 1925).

(6) The said capital allowance shall not accrue to the lessee for any period during which he has not carried on mining operations in accordance with the terms of his lease.

(7) The said capital allowance shall not be taken into account in determining the ratio of profits expressed as a percentage of revenue whenever such ratio forms a factor in the scale of profits payable to the state.

(8) In fixing the aforesaid scale regard shall be paid to all the circumstances under which the

the precious metals to which the lease relates were discovered or opened up and the expenditure and risk involved in any such preliminary operation.

(9) The profits of which a share is payable to the State in terms of any mining lease granted under this section, shall be determined by the Commissioner for Inland Revenue in like manner as the taxable income derived from mining operations is determined for the purpose of the law relating to income tax subject to objection and appeal as provided in that law, and the share of the profits payable to the State shall be recovered in like manner as the tax on income derived from mining operations is recovered under the said law, and all the provisions of that law relating to the determination and recovery of income tax and objections and appeals shall apply *mutatis mutandis* to the determination and recovery of the share of the profits payable to the State under any lease under this section, and to the consideration of objections and the hearing of appeals.

(10) No transfer duty and no stamp duty shall be payable in respect of any lease under this section and in respect of any cession of any such lease: Provided that the lessee shall pay to the Government in addition to the State's share of the profits aforesaid a sum equal to one and one-quarter per cent. of such share, which additional sum shall be paid over to the Provincial Revenue Fund of the Transvaal.

(11) Any mining lease granted under this section shall be a mining title for all the purposes of this Act or any other law, and shall be registered as such in the office of the Registrar of Mining Titles.

(12) If any area leased under this section is not being worked to the satisfaction of the Minister, he may, notwithstanding anything contained in section *one hundred and twenty-seven* serve a notice on the lessee calling upon him within a period of six months adequately to work the leased area, and in the event of non-compliance with such notice, he may increase the rent payable under the lease to ten shillings per morgen per month, and in the event of non-payment of the increased rent due under the lease, within six months of the due date, the Minister may cancel the lease and evict the lessee.

A copy of any notice served under this section shall be sent to the mortgagee, if any, of the leased area.

(13) In the event of the cancellation of any lease granted under this section or in the event of the abandonment of such lease by the lessee, such cancellation or abandonment shall be notified in the *Gazette*, and the Minister may, on the recommendation of the Mining Leases Board, lease the area in question to any person applying therefor, or he may call for tenders for the right to lease such area on conditions to be agreed upon between the Minister and the lessee."

Substitution of  
section 20 of Act  
36 of 1908.

7. Section *twenty* of the principal Act is hereby repealed and the following section substituted therefor:—

"Grant of  
mijnpacht  
to holder  
of the  
mineral  
rights.

20. (1) Whenever a discovery of precious metals on private land has been notified in accordance with section *seventeen* or whenever the Minister is satisfied that there are reasonable grounds for believing that precious metals exist in payable quantities on such land, the holder of the mineral rights, unless the prospecting rights in respect of such land are leased under section *twelve bis*, shall be entitled to select a mining area, called a *mijnpacht*, of such shape and in such location as the Minister on the recommendation of the Mining Leases Board, after consultation with the said holder, shall approve, not exceeding in extent one-quarter of the mineralized portion of the land, as determined by the Government Mining Engineer, over which the mineral rights are held. On obtaining, and so long as he holds, a *mijnpacht*-brief, he shall have the exclusive right to prospect and mine for precious metals within the *mijnpacht* subject to the provisions of this Act.

precious metals to which the lease relates were discovered or opened up and the expenditure and risk involved in any such preliminary operation.

(9) The profits of which a share is payable to the State in terms of any mining lease granted under this section, shall be determined by the Commissioner for Inland Revenue in like manner as the taxable income derived from mining operations is determined for the purpose of the law relating to income tax subject to objection and appeal as provided in that law, and the share of the profits payable to the State shall be recovered in like manner as the tax on income derived from mining operations is recovered under the said law, and all the provisions of that law relating to the determination and recovery of income tax and objections and appeals shall apply *mutatis mutandis* to the determination and recovery of the share of the profits payable to the State under any lease under this section, and to the consideration of objections and the hearing of appeals.

(10) No transfer duty and no stamp duty shall be payable in respect of any lease under this section and in respect of any cession of any such lease: Provided that the lessee shall pay to the Government in addition to the State's share of the profits aforesaid a sum equal to one and one-quarter per cent. of such share, which additional sum shall be paid over to the Provincial Revenue Fund of the Transvaal.

(11) Any mining lease granted under this section shall be a mining title for all the purposes of this Act or any other law, and shall be registered as such in the office of the Registrar of Mining Titles.

(12) If any area leased under this section is not being worked to the satisfaction of the Minister, he may, notwithstanding anything contained in section *one hundred and twenty-seven* serve a notice on the lessee calling upon him within a period of six months adequately to work the leased area, and in the event of non-compliance with such notice, he may increase the rent payable under the lease to ten shillings per morgen per month, and in the event of non-payment of the increased rent due under the lease, within six months of the due date, the Minister may cancel the lease and evict the lessee.

A copy of any notice served under this section shall be sent to the mortgagee, if any, of the leased area.

(13) In the event of the cancellation of any lease granted under this section or in the event of the abandonment of such lease by the lessee, such cancellation or abandonment shall be notified in the *Gazette*, and the Minister may, on the recommendation of the Mining Leases Board, lease the area in question to any person applying therefor, or he may call for tenders for the right to lease such area on conditions to be agreed upon between the Minister and the lessee."

7. Artikel *twintig* van die Hoofwet word hiermee herroep en deur die volgende artikel vervang:—

„Grant of  
mijnpacht  
to holder  
of the  
mineral  
rights.

20. (1) Whenever a discovery of precious metals on private land has been notified in accordance with section *seventeen* or whenever the Minister is satisfied that there are reasonable grounds for believing that precious metals exist in payable quantities on such land, the holder of the mineral rights, unless the prospecting rights in respect of such land are leased under section *twelve bis*, shall be entitled to select a mining area, called a mijnpacht, of such shape and in such location as the Minister on the recommendation of the Mining Leases Board, after consultation with the said holder, shall approve, not exceeding in extent one-quarter of the mineralized portion of the land, as determined by the Government Mining Engineer, over which the mineral rights are held. On obtaining, and so long as he holds, a mijnpacht-brief, he shall have the exclusive right to prospect and mine for precious metals within the mijnpacht subject to the provisions of this Act.

Vervanging van  
artikel 20 van  
Wet 35 van 1908.

(2) The holder of the mineral rights on being notified of the approval of the Minister of the selection of such *mijnpacht* shall within three months from the date of such notification lodge at the office of the Mining Commissioner a diagram of the area so selected together with a certificate from the Registrar of Deeds that he is the registered holder of the mineral rights over the land and if he shall not have complied with the provisions of this sub-section he shall be deemed to have abandoned his right to such *mijnpacht*.

(3) Any land selected as a *mijnpacht* under this section shall on registration of the *mijnpacht*-brief be deemed to be proclaimed land."

Insertion of new section 20 *bis* in Act 35 of 1908.

8. The following new section is hereby inserted in the principal Act after section *twenty* :—

"Grant of mining leases to holders of mineral rights.

20*bis* (1) Whenever the mining area to which the holder of the mineral rights is entitled as a *mijnpacht* under section *twenty* appears to such holder to be insufficient in itself to constitute a workable mining proposition, such holder may before selecting such *mijnpacht* make application to the Mining Leases Board for the grant of a lease of the undermining rights of an additional area of the land which is contiguous to the *mijnpacht* proposed to be selected and which will be worked in conjunction therewith.

(2) The application for such additional area shall be made to the Mining Leases Board and shall contain particulars of the reasons on which the application is based, of the proposed scheme of working the *mijnpacht* and such additional area, as a joint area, of the proposals for providing capital for the undertaking and of the share of the profits which the applicant is prepared to pay to the Government in respect of such joint area in accordance with sub-section (5).

(3) The Mining Leases Board shall consider any such application and if it is satisfied that the *mijnpacht* is insufficient in itself to form a workable mining proposition and that the applicant's financial proposals and proposed scheme of working are adequate, it shall, after negotiation with the applicant, recommend to the Minister what the extent, shape and location of the joint area, the undermining rights of which will be sufficient in its opinion to form a workable mining proposition, should be and what share of the profits should be payable to the State in accordance with sub-section (5) in respect of the working of such joint area and the Minister may grant a mining lease to the applicant in respect of such joint area in accordance with the recommendation of the said Board and subject to the provisions of this Act.

(4) The lease of the said joint area shall be granted in lieu of the *mijnpacht*-brief referred to in section *twenty*: Provided that a rent shall be paid thereon in respect of every morgen or fraction thereof in the joint area of six shillings per month, one-half of which shall be paid to the owner of the land.

(5) The grant of a lease under this section shall be subject to the condition that the lessee shall pay to the State in addition to taxation a share of the profits derived from the working of the joint area on the scale recommended by the Mining Leases Board in such proportion as the area granted additional to the *mijnpacht*, to which the applicant would otherwise have been entitled under section *twenty*, bears to the joint area and the provisions of section *nineteen* other than sub-sections (1), (12) and (13) of that section shall *mutatis mutandis* apply."

Insertion of new section 20*ter* in Act 35 of 1908.

9. The following new section is hereby inserted in the principal Act after section *twenty bis* :—

"Rights of a lessee under section 12 *bis*.

20*ter* (1) If the prospecting rights of any private land have been leased under sub-section (2) of section *twelve bis*, the lessee operating under such lease shall, whenever precious metals have been discovered or the Minister is satisfied that there are reasonable grounds for believing that they exist



(2) The holder of the mineral rights on being notified of the approval of the Minister of the selection of such mijnpacht shall within three months from the date of such notification lodge at the office of the Mining Commissioner a diagram of the area so selected together with a certificate from the Registrar of Deeds that he is the registered holder of the mineral rights over the land and if he shall not have complied with the provisions of this sub-section he shall be deemed to have abandoned his right to such mijnpacht.

(3) Any land selected as a mijnpacht under this section shall on registration of the mijnpacht-brief be deemed to be proclaimed land."

8. Die volgende nuwe artikel word hiermee na artikel 20bis in die Hoofwet ingevoeg:  
 „Grant of mining leases to holders of mineral rights.

Invoeging van nuwe artikel 20bis in Wet 35 van 1908.

20bis. (1) Whenever the mining area to which the holder of the mineral rights is entitled as a mijnpacht under section *twenty* appears to such holder to be insufficient in itself to constitute a workable mining proposition, such holder may before selecting such mijnpacht make application to the Mining Leases Board for the grant of a lease of the undermining rights of an additional area of the land which is contiguous to the mijnpacht proposed to be selected and which will be worked in conjunction therewith.

(2) The application for such additional area shall be made to the Mining Leases Board and shall contain particulars of the reasons on which the application is based, of the proposed scheme of working the mijnpacht and such additional area, as a joint area, of the proposals for providing capital for the undertaking and of the share of the profits which the applicant is prepared to pay to the Government in respect of such joint area in accordance with sub-section (5).

(3) The Mining Leases Board shall consider any such application and if it is satisfied that the mijnpacht is insufficient in itself to form a workable mining proposition and that the applicant's financial proposals and proposed scheme of working are adequate, it shall, after negotiation with the applicant, recommend to the Minister what the extent, shape and location of the joint area, the undermining rights of which will be sufficient in its opinion to form a workable mining proposition, should be, and what share of the profits should be payable to the State in accordance with sub-section (5) in respect of the working of such joint area and the Minister may grant a mining lease to the applicant in respect of such joint area in accordance with the recommendation of the said Board and subject to the provisions of this Act.

(4) The lease of the said joint area shall be granted in lieu of the mijnpacht-brief referred to in section *twenty*: Provided that a rent shall be paid thereon in respect of every morgen or fraction thereof in the joint area of six shillings per month, one-half of which shall be paid to the owner of the land.

(5) The grant of a lease under this section shall be subject to the condition that the lessee shall pay to the State in addition to taxation a share of the profits derived from the working of the joint area on the scale recommended by the Mining Leases Board in such proportion as the area granted additional to the mijnpacht, to which the applicant would otherwise have been entitled under section *twenty*, bears to the joint area and the provisions of section *nineteen* other than sub-sections (1), (12) and (13) of that section shall *mutatis mutandis* apply."

9. Die volgende nuwe artikel word hiermee na artikel 20 ter in die Hoofwet ingevoeg:  
 „Rights of a lessee under section 12bis.

Invoeging van nuwe artikel 20ter in Wet 35 van 1908.

20 ter. (1) If the prospecting rights of any private land have been leased under sub-section (2) of section *twelve bis*, the lessee operating under such lease shall, whenever precious metals have been discovered or the Minister is satisfied that there are reasonable grounds for believing that they exist

in payable quantities on such land, be entitled to apply to the Mining Leases Board for a lease of the right to mine on such land. The Mining Leases Board shall consider such application, and after negotiation with the applicant shall recommend to the Minister what the extent, shape and location of the mining area, the undermining rights of which will in its opinion be sufficient to form a workable mining proposition, should be, and what share of the profits should be payable to the State in respect of the mining of such area and the Minister may grant a mining lease to such applicant in respect of such area in accordance with the recommendations of the Mining Leases Board and subject to the provisions of this Act.

(2) Every such lease shall provide for the payment of the rental prescribed in sub-section (4) of section *twenty bis*, one-half of which shall be paid to the owner of the land.

(3) Every such lease shall further provide for the payment of a share of the profits to the State in respect of the mining of the leased area in accordance with the recommendations of the Mining Leases Board and the provisions of section *nineteen*, other than sub-sections (1), (12) and (13) of that section shall *mutatis mutandis* apply; such lease shall further provide for the payment to the Government for the benefit of the holder of the mineral rights of an amount equal to one-quarter of the share of the profits payable to the State thereunder. Such payment shall be made at the same time as payment is made of the share of profits payable to the State and shall thereupon be paid over to the holder of the mineral rights.

Amendment of section 23 of Act 35 of 1908.

10. Section *twenty-three* of the principal Act is hereby amended by the addition after the words "working his mijnpacht" in paragraph (d) of sub-section (1), of the words "or the mining area leased to him under section *twenty bis*".

Amendment of section 24 of Act 35 of 1908.

11. Sub-section (5) of section *twenty-four* of the principal Act is hereby deleted and the following sub-section substituted therefor:—

"(5) Where any private land is held by or in trust for a native chief or a native tribe or community and the mineral rights of such land are held by any other person, all the provisions of sections *twelve bis*, *twenty*, *twenty bis* and *twenty ter* shall apply: Provided that one-half the rent of any prospecting lease and of the rent payable in respect of any mining lease granted under any law shall be payable to the Minister of Native Affairs and shall be held by him in trust for such chief or tribe or community and applied to such purposes as they may desire, subject to the approval of the Governor-General".

Insertion of new section 24bis in Act 35 of 1908.

12. The following new section is hereby inserted in the principal Act after section *twenty-four*:

"Owners' surface reservations on mining lease areas.

24bis. (1) The provisions of sections *twenty-three* and *twenty-four* shall *mutatis mutandis* apply when any mijnpacht or mining lease is to be granted in respect of any private land or land referred to in sub-section (5) of section *twenty-four*, notwithstanding that it is not intended to proclaim the land in terms of Chapter IV and the owner or native chief or tribe or community shall be entitled to the surface reservations as in the said sections prescribed in respect of the area to be granted under mijnpacht or mining lease, except in so far as the surface of such area may in the opinion of the Government Mining Engineer be required for mining purposes or purposes incidental to mining."

Amendment of section 25 of Act 35 of 1908.

13. Section *twenty-five* of the principal Act is hereby amended by the insertion after the word "mijnpacht" wherever it occurs, of the words "mining lease area".

Insertion of new section 25bis in Act 35 of 1908.

14. The following new section is hereby inserted in the principal Act after section *twenty-five*:—

"Further 25bis. Whenever a mijnpacht or mining lease has been granted over any portion of any Crown or private land under the provisions of sections *twelve bis*, *nineteen*, *twenty*, *twenty bis* or *twenty ter* and the Governor-General does not see fit to proclaim such land as a public digging under Chapter IV, he may, notwithstanding anything in

in payable quantities on such land, be entitled to apply to the Mining Leases Board for a lease of the right to mine on such land. The Mining Leases Board shall consider such application, and after negotiation with the applicant shall recommend to the Minister what the extent, shape and location of the mining area, the undermining rights of which will in its opinion be sufficient to form a workable mining proposition, should be, and what share of the profits should be payable to the State in respect of the mining of such area and the Minister may grant a mining lease to such applicant in respect of such area in accordance with the recommendations of the Mining Leases Board and subject to the provisions of this Act.

(2) Every such lease shall provide for the payment of the rental prescribed in sub-section (4) of section *twenty bis*, one-half of which shall be paid to the owner of the land.

(3) Every such lease shall further provide for the payment of a share of the profits to the State in respect of the mining of the leased area in accordance with the recommendations of the Mining Leases Board and the provisions of section *nineteen*, other than sub-sections (1), (12) and (13) of that section shall *mutatis mutandis* apply; such lease shall further provide for the payment to the Government for the benefit of the holder of the mineral rights of an amount equal to one-quarter of the share of the profits payable to the State thereunder. Such payment shall be made at the same time as payment is made of the share of profits payable to the State and shall thereupon be paid over to the holder of the mineral rights.

10. Artikel *drie-en-twintig* van die Hoofwet word hiermee Wysiging van artikel 23 van Wet 35 van 1908.  
gewysig deur na die woorde „working his mijnpacht” in paragraaf (d) van sub-artikel (1) die woorde „or the mining area leased to him under section *twenty bis*” toe te voeg.

11. Sub-artikel (5) van artikel *vier-en-twintig* van die Hoofwet word hiermee geskrap en deur die volgende sub-artikel vervang:— Wysiging van artikel 24 van Wet 35 van 1908.

„(5) Where any private land is held by or in trust for a native chief or a native tribe or community and the mineral rights of such land are held by any other person, all the provisions of sections *twelve bis*, *twenty*, *twenty bis* and *twenty ter* shall apply: Provided that one-half the rent of any prospecting lease and of the rent payable in respect of any mining lease granted under any law shall be payable to the Minister of Native Affairs and shall be held by him in trust for such chief or tribe or community and applied to such purposes as they may desire, subject to the approval of the Governor-General”.

12. Die volgende nuwe artikel word hiermee na artikel *vier-en-twintig* in die Hoofwet ingevoeg:— Invoeging van nuwe artikel 24bis in Wet 35 van 1908.

„Owners’ surface reservations on mining lease areas. 24bis. (1) The provisions of sections *twenty-three* and *twenty-four* shall *mutatis mutandis* apply when any mijnpacht or mining lease is to be granted in respect of any private land or land referred to in sub-section (5) of section *twenty-four*, notwithstanding that it is not intended to proclaim the land in terms of Chapter IV and the owner or native chief or tribe or community shall be entitled to the surface reservations as in the said sections prescribed in respect of the area to be granted under mijnpacht or mining lease, except in so far as the surface of such area may in the opinion of the Government Mining Engineer be required for mining purposes or purposes incidental to mining”.

13. Artikel *vyf-en-twintig* van die Hoofwet word hiermee Wysiging van artikel 25 van Wet 35 van 1908.  
gewysig deur na die woord „mijnpacht”, orals waar dit voorkom, die woorde „mining lease area” in te voeg.

14. Die volgende nuwe artikel word hiermee na artikel *vyf-en-twintig* in die Hoofwet ingevoeg:— Invoeging van nuwe artikel 25bis in Wet 35 van 1908.

„Further mining leases may be granted on unproclaimed land. 25bis. Whenever a mijnpacht or mining lease has been granted over any portion of any Crown or private land under the provisions of sections *twelve bis*, *nineteen*, *twenty*, *twenty bis* or *twenty ter* and the Governor-General does not see fit to proclaim such land as a public digging under Chapter IV, he may, notwithstanding anything in

this or any other law contained, call for tenders for the right to lease the mining rights over other portions of such land and on the recommendation of the Mining Leases Board on the tenders submitted, he may lease such mining rights subject to the payment to the State of such share of the profits as the said Board may recommend and to such other terms and conditions as may be agreed upon between the lessee and the Minister: Provided that all the provisions in regard to rent prescribed by sub-section (2) of section *nineteen* in respect of Crown land and sub-section (4) of section *twenty bis* in respect of private land shall apply to any such lease."

Insertion of new section 26bis in Act 35 of 1908.

15. The following new section is hereby inserted in the principal Act after section *twenty-six*:—

"Mijnpacht 26bis. Any land which at the commencement of this Act was held under mijnpacht-brief issued under Law No. 15 of 1898 of the Transvaal or a prior law and any area held under a registered mining lease or mijnpacht-brief granted under this Act shall notwithstanding anything in any law contained, be deemed to be proclaimed land and on the lapsing of the mijnpacht-brief or mining lease shall continue to be deemed to be proclaimed land until deproclaimed in terms of section *thirty-one*".

Substitution of section 28 of Act 35 of 1908.

16. Section *twenty-eight* of the principal Act is hereby repealed and the following section substituted therefor:—

"Notice to owner before proclamation or lease of private land. 28. No private land shall be proclaimed a public digging and no mining lease shall be granted thereon until the expiry of three months' notice given to the owner of the land and to the holder of the mineral rights thereover, of the intention to proclaim such land or to grant a mining lease thereon: Provided that no such notice need be given to the holder of the mineral rights if he has acquired the mining rights to which he is entitled under this Act or is the intended mining lessee; and provided, further, that if in the opinion of the Minister personal service of any such notice is for any reason whatever impracticable, such notice shall be published in the *Gazette*".

Insertion of new section 30bis in Act 35 of 1908.

17. The following new section is hereby inserted in the principal Act after section *thirty*:—

"Exemption 30bis. (1) The Governor-General may, by proclamation in the *Gazette*, exempt the surface of proclaimed land or of land held under mining title, or any portion of such land, for such period as he may deem fit from any or all of the provisions of Chapter IX: Provided that no such exemption shall be made if, in the opinion of the Government Mining Engineer, such exemption is likely to interfere with mining.

(2) The proclamation exempting any proclaimed land under this section shall state the date from which the exemption shall take effect, and shall specify the provisions from which the land shall be exempt.

(3) Before any proclamation is issued under sub-section (1) a notice of intention to issue such proclamation shall be published in four consecutive ordinary issues of the *Gazette*.

(4) In so far as any land has been exempted by the Governor-General, the use of the surface thereof shall, subject to the provisions of this Act, be at the disposal of the owner.

(5) The Governor-General may, by proclamation in the *Gazette*, withdraw any exemption granted under the powers conferred by sub-section (1). Any such withdrawal may be in respect of the whole or of a portion only of the surface exempted or in respect of any or all of the provisions from which such surface was exempted.

(6) The powers conferred by sub-section (5) shall be exercised only upon application made to the Minister by a person who requires the land concerned for purposes of mining or purposes incidental to mining and who has furnished security to the satisfaction of the Minister for the payment of compensation to any person who suffers damage or loss as a result of such mining or incidental operations.



this or any other law contained, call for tenders for the right to lease the mining rights over other portions of such land and on the recommendation of the Mining Leases Board on the tenders submitted, he may lease such mining rights subject to the payment to the State of such share of the profits as the said Board may recommend and to such other terms and conditions as may be agreed upon between the lessee and the Minister: Provided that all the provisions in regard to rent prescribed by sub-section (2) of section *nineteen* in respect of Crown land and sub-section (4) of section *twenty bis* in respect of private land shall apply to any such lease".

15. Die volgende nuwe artikel word hiermee na artikel *ses-en-twintig* in die Hoofwet ingevoeg:—  
Invoeging van nuwe artikel 26bis in Wet 35 van 1908.

„Mijnpacht of leased area deemed to be proclaimed land. 26bis. Any land which at the commencement of this Act was held under mijnpacht-brief issued under Law No. 15 of 1898 of the Transvaal or a prior law and any area held under a registered mining lease or mijnpacht-brief granted under this Act shall notwithstanding anything in any law contained be deemed to be proclaimed land and on the lapsing of the mijnpacht-brief or mining lease shall continue to be deemed to be proclaimed land until deproclaimed in terms of section *thirty-one*".

16. Artikel *agl-en-twintig* van die Hoofwet word hiermee herroep en deur die volgende artikel vervang:—  
Vervanging van artikel 28 van Wet 35 van 1908.

„Notice to owner before proclamation or lease of private land. 28. No private land shall be proclaimed a public digging and no mining lease shall be granted thereon until the expiry of three months' notice given to the owner of the land and to the holder of the mineral rights thereover, of the intention to proclaim such land or to grant a mining lease thereon: Provided that no such notice need be given to the holder of the mineral rights if he has acquired the mining rights to which he is entitled under this Act or is the intended mining lessee; and provided, further, that if in the opinion of the Minister personal service of any such notice is for any reason whatever impracticable, such notice shall be published in the *Gazette*".

17. Die volgende nuwe artikel word hiermee na artikel *dertig* in die Hoofwet ingevoeg:—  
Invoeging van nuwe artikel 30bis in Wet 35 van 1908.

„Exemption of the surface of proclaimed land from certain restrictions. 30bis. (1) The Governor-General may, by proclamation in the *Gazette*, exempt the surface of proclaimed land or of land held under mining title, or any portion of such land, for such period as he may deem fit from any or all of the provisions of Chapter IX: Provided that no such exemption shall be made if, in the opinion of the Government Mining Engineer, such exemption is likely to interfere with mining.

(2) The proclamation exempting any proclaimed land under this section shall state the date from which the exemption shall take effect, and shall specify the provisions from which the land shall be exempt.

(3) Before any proclamation is issued under sub-section (1) a notice of intention to issue such proclamation shall be published in four consecutive ordinary issues of the *Gazette*.

(4) In so far as any land has been exempted by the Governor-General, the use of the surface thereof shall, subject to the provisions of this Act, be at the disposal of the owner.

(5) The Governor-General may, by proclamation in the *Gazette*, withdraw any exemption granted under the powers conferred by sub-section (1). Any such withdrawal may be in respect of the whole or of a portion only of the surface exempted or in respect of any or all of the provisions from which such surface was exempted.

(6) The powers conferred by sub-section (5) shall be exercised only upon application made to the Minister by a person who requires the land concerned for purposes of mining or purposes incidental to mining and who has furnished security to the satisfaction of the Minister for the payment of compensation to any person who suffers damage or loss as a result of such mining or incidental operations.

(7) The powers conferred by sub-section (5) shall not be exercised unless it appears from a report by the Government Mining Engineer that the land in question is required for purposes of mining or purposes incidental to mining.

(8) The provisions of sub-section (3) shall, *mutatis mutandis*, apply to any withdrawal under the provisions of sub-section (5) of any exemption granted under the provisions of sub-section (1).

(9) Every person who has suffered any loss as a direct result of the exercise of the powers conferred by sub-section (5) shall be entitled to be paid compensation for such loss by the person at whose instance the powers were exercised. The amount of such compensation shall be determined, in the absence of mutual agreement, by arbitration".

Substitution of  
section 31 of Act 35  
of 1908.

18. Section *thirty-one* of the principal Act is hereby repealed and the following section substituted therefor:—

" Deprocla-  
mation of  
public  
diggings.

31. (1) Any proclaimed land or any portion thereof may be deproclaimed by the Governor-General by proclamation in the *Gazette*: Provided that the Government Mining Engineer has certified that precious metals are not being found, and that, in his opinion, there are no reasonable prospects of precious metals being found in payable quantities thereon.

(2) Before any proclaimed land is deproclaimed under sub-section (1) a notice of intention to deproclaim such land shall be published in four consecutive ordinary issues of the *Gazette*.

(3) Subject to the provisions of this section, neither deproclamation under sub-section (1) nor exemption under section *thirty bis* shall affect any mining title or the title to any trading, business, residential, or industrial stand, or trading site, or any right or permit acquired under Chapter VIII or IX or under any corresponding provisions of a prior law and existing at the date of the notice of intention to exempt or deproclaim the land: Provided that if, after such exemption or deproclamation, the moneys due in respect of any such right, title or permission become or are nine months in arrear, or any permit is in the opinion of the Minister not being exercised by the holder thereof or is being exercised for purposes other than those for which it was granted, such title, right or permit shall determine and shall forthwith be cancelled by the Mining Commissioner, notwithstanding anything to the contrary contained in Chapter XI; and provided further that the owner of the land in question may on deproclamation expropriate any such title, right or permit, not required for purposes incidental to mining or for any pipe line or power line used in connection with any public utility undertaking or not granted under section *sixty-nine* or *seventy-one*, on payment of an amount by way of compensation to be fixed by mutual agreement, or in default of such agreement by arbitration.

(4) If any portion of proclaimed land upon which there is a structure of a value of not less than five hundred pounds is used by the Government or the provincial administration or a local authority or a religious association under any provision of this Act or any prior law, the State or such local authority or religious association shall, after deproclamation of such land as aforesaid (unless any document authorizing such use or an agreement with the owner of such land limits the period of such use) be entitled to obtain from such owner the transfer of such portion of land, subject to a reservation of the mineral rights on such land to the holder thereof.

(5) The extent of the land to be transferred under sub-section (4) shall not exceed an area reasonably necessary in connection with the use of the aforesaid structure. If the owner of the land in question and the transferee fail to agree on the area to be transferred, such area shall be determined by the Minister.

(7) The powers conferred by sub-section (5) shall not be exercised unless it appears from a report by the Government Mining Engineer that the land in question is required for purposes of mining or purposes incidental to mining.

(8) The provisions of sub-section (3) shall, *mutatis mutandis*, apply to any withdrawal under the provisions of sub-section (5) of any exemption granted under the provisions of sub-section (1).

(9) Every person who has suffered any loss as a direct result of the exercise of the powers conferred by sub-section (5) shall be entitled to be paid compensation for such loss by the person at whose instance the powers were exercised. The amount of such compensation shall be determined, in the absence of mutual agreement, by arbitration.

18. Artikel *een-en-dertig* van die Hoofwet word hiermee herroep en deur die volgende artikel vervang:—

Vervanging van  
artikel 31 van  
Wet 35 van 1908

„Depro-  
clamation  
of public  
diggings.

31. (1) Any proclaimed land or any portion thereof may be deproclaimed by the Governor-General by proclamation in the *Gazette*: Provided that the Government Mining Engineer has certified that precious metals are not being found, and that, in his opinion, there are no reasonable prospects of precious metals being found in payable quantities thereon.

(2) Before any proclaimed land is deproclaimed under sub-section (1) a notice of intention to deproclaim such land shall be published in four consecutive ordinary issues of the *Gazette*.

(3) Subject to the provisions of this section, neither deproclamation under sub-section (1) nor exemption under section *thirty bis* shall affect any mining title or the title to any trading, business, residential, or industrial stand, or trading site, or any right or permit acquired under Chapter VIII or IX or under any corresponding provisions of a prior law and existing at the date of the notice of intention to exempt or deproclaim the land: Provided that if, after such exemption or deproclamation, the moneys due in respect of any such right, title or permission become or are nine months in arrear, or any permit is in the opinion of the Minister not being exercised by the holder thereof or is being exercised for purposes other than those for which it was granted, such title, right or permit shall determine and shall forthwith be cancelled by the Mining Commissioner, notwithstanding anything to the contrary contained in Chapter XI; and provided further that the owner of the land in question may on deproclamation expropriate any such title, right or permit, not required for purposes incidental to mining or for any pipe line or power line used in connection with any public utility undertaking or not granted under section *sixty-nine* or *seventy-one*, on payment of an amount by way of compensation to be fixed by mutual agreement, or in default of such agreement by arbitration.

(4) If any portion of proclaimed land upon which there is a structure of a value of not less than five hundred pounds is used by the Government or the provincial administration or a local authority or a religious association under any provision of this Act or any prior law, the State or such local authority or religious association shall, after deproclamation of such land as aforesaid (unless any document authorizing such use or an agreement with the owner of such land limits the period of such use) be entitled to obtain from such owner the transfer of such portion of land, subject to a reservation of the mineral rights on such land to the holder thereof.

(5) The extent of the land to be transferred under sub-section (4) shall not exceed an area reasonably necessary in connection with the use of the aforesaid structure. If the owner of the land in question and the transferee fail to agree on the area to be transferred, such area shall be determined by the Minister.

(6) A certificate signed by the Minister defining the land to be transferred under sub-section (4), naming the transferee and stating that the latter is entitled to obtain transfer of that land by virtue of this section, shall authorize the Registrar of Deeds to pass transfer of such land as if the owner thereof had given a power of attorney for its transfer.

(7) If the owner of the land, a portion whereof is to be transferred in terms of this section, fails to produce the title deed to such land or the holder of any mortgage bond over such land fails to consent to the release of the area to be transferred from the bond, or to produce his bond, the Registrar of Deeds shall nevertheless pass transfer of such portion free from such bond and note the transfer on the duplicate title deed and bond filed in his office and in the appropriate registers: Provided that no further transaction relating to the said land, other than the transferred portion, shall be registered by the Registrar of Deeds until registration of the transfer has been completed by endorsement thereof on the title deed, for which purpose the Registrar of Deeds is hereby required to impound the said title deed and to make the necessary endorsement thereon whenever it may for any reason be lodged in his office.

(8) All costs of survey and other costs incidental to the passing of a transfer under this section shall be borne by the transferee.

Amendment of  
section 40 of Act  
35 of 1908.

19. Section forty of the principal Act is hereby amended—

(i) by the deletion of sub-section (3) and the substitution thereof of the following sub-section:—

“(3) (a) When ore containing precious metal is being extracted from any claim (not being a claim on an alluvial deposit), the holder of a prospecting licence for such claim shall apply to the Mining Commissioner for the conversion of that licence into a licence to be called a ‘digger’s licence’, in respect of which there shall be paid the sum of twenty shillings per month as from the first day of the month in which such extraction first took place, whether the claim be situate on Crown or private land.

(b) The holder of a prospecting licence shall forward to the Mining Commissioner not later than thirty days after the end of each calendar quarter a statement showing every claim from which he extracted during that quarter either for the first time or for the first time after the re-conversion under sub-section (5) of such claim to a prospecting claim, ore containing precious metal, and the month during that quarter in which such extraction commenced in any such claim.

(c) If at any time the Mining Commissioner should ascertain that the prospecting licence in respect of any claim from which ore has been extracted has not been converted into a digger’s licence, he shall call upon the licence holder to convert his licence as from the first day of the month in which the ore was first extracted therefrom, and shall not renew any claim licence held by such licence holder until such conversion has been effected.

(d) This sub-section shall not apply to ore which, in the opinion of the Mining Commissioner, has been extracted in the course of the *bona fide* development of any claim”; and

(ii) by the addition thereto of the following new sub-section:—

“(5) Whenever the precious metal contents in any claim held under a digger’s licence have, in the opinion of the Government Mining Engineer, become exhausted or unpayable or if it is for the time inconvenient for the licensee to work such claim, and precious metal is not being won therefrom, the Mining Commissioner shall, on the application of the licensee, convert such digger’s licence into a prospecting licence: Provided that in the event of precious metal being again won from such claim by the licensee, the Mining Commissioner shall re-convert the licence to a digger’s licence”.



(6) A certificate signed by the Minister defining the land to be transferred under sub-section (4), naming the transferee and stating that the latter is entitled to obtain transfer of that land by virtue of this section, shall authorize the Registrar of Deeds to pass transfer of such land as if the owner thereof had given a power of attorney for its transfer.

(7) If the owner of the land, a portion whereof is to be transferred in terms of this section, fails to produce the title deed to such land or the holder of any mortgage bond over such land fails to consent to the release of the area to be transferred from the bond, or to produce his bond, the Registrar of Deeds shall nevertheless pass transfer of such portion free from such bond and note the transfer on the duplicate title deed and bond filed in his office and in the appropriate registers: Provided that no further transaction relating to the said land, other than the transferred portion, shall be registered by the Registrar of Deeds until registration of the transfer has been completed by endorsement thereof on the title deed, for which purpose the Registrar of Deeds is hereby required to impound the said title deed and to make the necessary endorsement thereon whenever it may for any reason be lodged in his office.

(8) All costs of survey and other costs incidental to the passing of a transfer under this section shall be borne by the transferee".

19. Artikel *veertig* van die Hoofwet word hiermee gewysig—

Wysiging van  
artikel 40 van  
Wet 35 van 1908.

- (i) deur sub-artikel (3) te skrap en te vervang deur die volgende sub-artikel:—

„(3) (a) When ore containing precious metal is being extracted from any claim (not being a claim on an alluvial deposit), the holder of a prospecting licence for such claim shall apply to the Mining Commissioner for the conversion of that licence into a licence to be called a 'digger's licence', in respect of which there shall be paid the sum of twenty shillings per month as from the first day of the month in which such extraction first took place, whether the claim be situate on Crown or private land.

(b) The holder of a prospecting licence shall forward to the Mining Commissioner not later than thirty days after the end of each calendar quarter a statement showing every claim from which he extracted during that quarter either for the first time or for the first time after the re-conversion under sub-section (5) of such claim to a prospecting claim, ore containing precious metal, and the month during that quarter in which such extraction commenced in any such claim.

(c) If at any time the Mining Commissioner should ascertain that the prospecting licence in respect of any claim from which ore has been extracted has not been converted into a digger's licence, he shall call upon the licence holder to convert his licence as from the first day of the month in which the ore was first extracted therefrom, and shall not renew any claim licence held by such licence holder until such conversion has been effected.

(d) This sub-section shall not apply to ore which, in the opinion of the Mining Commissioner, has been extracted in the course of the *bona fide* development of any claim"; en

- (ii) deur die volgende nuwe sub-artikel daaraan toe te voeg:—

„(5) Whenever the precious metal contents in any claim held under a digger's licence have, in the opinion of the Government Mining Engineer, become exhausted or unpayable or if it is for the time inconvenient for the licensee to work such claim, and precious metal is not being won therefrom, the Mining Commissioner shall, on the application of the licensee, convert such digger's licence into a prospecting licence: Provided that in the event of precious metal being again won from such claim by the licensee, the Mining Commissioner shall re-convert the licence to a digger's licence".

Substitution of  
section 41 of Act  
35 of 1908.

20. Section *forty-one* of the principal Act is hereby repealed and the following section substituted therefor :—

“Reduction or refund of licence moneys, mining rent or mijnpacht dues. 41. (1) Whenever the holder of a mining title has, during the period which elapsed since he last paid the licence moneys, rent or mijnpacht dues payable in respect of such title, incurred any expenditure on work on or in connection with the mining of the land held under such title, which in the opinion of the Mining Commissioner was reasonably necessary and sufficient, the said holder shall when next paying such licence moneys, rent or dues, be entitled to an exemption, to the extent of such expenditure, from payment of that portion of such moneys, rent or dues as would, but for such exemption, accrue to the State.

(2) Where sums of money, which in the opinion of the Mining Commissioner are adequate, have been expended on the mining or development of any land held under mining title and work thereon has been temporarily curtailed or discontinued for reasons which appear to the Mining Commissioner to be sufficient, he may exempt the holder of such title in respect of such period as he may in the circumstances deem equitable from the payment of that portion of the licence moneys or rent or mijnpacht dues payable by such holder as would, but for such exemption, accrue to the State, and if any such licence moneys or rent or dues have already been paid in respect of such period the Mining Commissioner may refund to the person who made the payment so much thereof as accrued to the State: Provided that in no case shall an exemption or refund be made under this sub-section in respect of a period exceeding six months in any year, except if the reason for the curtailment or discontinuance is sickness.

(3) No exemption or refund shall be granted under this section unless application therefor is made within thirty days after the due date for the renewal of the licence or payment of the rent or mijnpacht dues in question and if exemption is refused nothing in this section contained shall be construed as relieving the holder of a claim licence from payment of the additional sum prescribed by section *ninety-nine* as applied to claims by section *one hundred* or the fine prescribed by section *one hundred and two* or as preventing lapsing of any rights under a mining title as a result of non-payment on a prescribed date of any moneys due in respect of such title.

(4) No exemption or refund shall be granted under this section if the holder of the mining title in question is a company, unless the company satisfies the Mining Commissioner that it has not in respect of its last preceding financial year paid to its shareholders by way of dividend, interest, bonus or otherwise any sums exceeding five per cent. per annum on the paid up share capital of the company.

(5) The Mining Commissioner may call upon any applicant for exemption or refund under this section to produce his books of account or any other documents or records to enable him to satisfy himself that the applicant is entitled to such exemption or refund.

(6) Any interested person who is dissatisfied with any decision of the Mining Commissioner on an application for an exemption or a refund under this section may within ten days after having been informed of such decision appeal therefrom to the Minister who may thereupon confirm, vary or set aside the Mining Commissioner's decision as he thinks fit.”

Amendment of  
section 47 of Act  
35 of 1908.

21. Section *forty-seven* of the principal Act is hereby amended by the addition thereto of the following new sub-section:—

“(9) Any mijnpacht granted under this section may be renewed by the Governor-General from time to time for periods not exceeding five years, which renewal shall be effected by endorsement on the mijnpacht-brief signed by the Minister and by the registered holder thereof”.

20. Artikel *een-en-veertig* van die Hoofwet word hiermee herroep en deur die volgende artikel vervang :—

Vervanging van  
artikel 41 van  
Wet 35 van 1908.

„Reduction  
or refund of  
licence  
moneys,  
mining rent  
or mijnpacht  
dues.

41. (1) Whenever the holder of a mining title has, during the period which elapsed since he last paid the licence moneys, rent or mijnpacht dues payable in respect of such title, incurred any expenditure on work on or in connection with the mining of the land held under such title, which in the opinion of the Mining Commissioner was reasonably necessary and sufficient, the said holder shall when next paying such licence moneys, rent or dues, be entitled to an exemption, to the extent of such expenditure, from payment of that portion of such moneys, rent or dues as would, but for such exemption, accrue to the State.

(2) Where sums of money, which in the opinion of the Mining Commissioner are adequate, have been expended on the mining or development of any land held under mining title and work thereon has been temporarily curtailed or discontinued for reasons which appear to the Mining Commissioner to be sufficient, he may exempt the holder of such title in respect of such period as he may in the circumstances deem equitable from the payment of that portion of the licence moneys or rent or mijnpacht dues payable by such holder as would, but for such exemption, accrue to the State, and if any such licence moneys or rent or dues have already been paid in respect of such period the Mining Commissioner may refund to the person who made the payment so much thereof as accrued to the State: Provided that in no case shall an exemption or refund be made under this sub-section in respect of a period exceeding six months in any year, except if the reason for the curtailment or discontinuance is sickness.

(3) No exemption or refund shall be granted under this section unless application therefor is made within thirty days after the due date for the renewal of the licence or payment of the rent or mijnpacht dues in question and if exemption is refused nothing in this section contained shall be construed as relieving the holder of a claim licence from payment of the additional sum prescribed by section *ninety-nine* as applied to claims by section *one hundred* or the fine prescribed by section *one hundred and two* or as preventing lapsing of any rights under a mining title as a result of non-payment on a prescribed date of any moneys due in respect of such title.

(4) No exemption or refund shall be granted under this section if the holder of the mining title in question is a company, unless the company satisfies the Mining Commissioner that it has not in respect of its last preceding financial year paid to its shareholders by way of dividend, interest, bonus or otherwise any sums exceeding five per cent. per annum on the paid up share capital of the company.

(5) The Mining Commissioner may call upon any applicant for exemption or refund under this section to produce his books of account or any other documents or records to enable him to satisfy himself that the applicant is entitled to such exemption or refund.

(6) Any interested person who is dissatisfied with any decision of the Mining Commissioner on an application for an exemption or a refund under this section may within ten days after having been informed of such decision appeal therefrom to the Minister who may thereupon confirm, vary or set aside the Mining Commissioner's decision as he thinks fit.

21. Artikel *sewen-en-veertig* van die Hoofwet word hiermee gewysig deur die volgende nuwe sub-artikel daaraan toe te voeg :—

Wysiging van  
artikel 47 van  
Wet 35 van 1908.

„(9) Any mijnpacht granted under this section may be renewed by the Governor-General from time to time for periods not exceeding five years, which renewal shall be effected by endorsement on the mijnpacht brief signed by the Minister and by the registered holder thereof.”

Amendment of  
section 52 of Act  
35 of 1908.

22. Section *fifty-two* of the principal Act is hereby amended by the deletion of paragraphs (b) and (c) of sub-section (1) and the substitution therefor of the following paragraphs:

- “(b) any land reserved under section *twenty-three*, unless such land has been selected by or for the holder of the mineral rights as a *mijnpacht* or mining lease area;  
(c) any locality or place mentioned in sub-section (1) of section *sixteen*, unless any person is by virtue of the proviso to that sub-section entitled to prospect thereon”.

Amendment of  
section 68 of Act  
35 of 1908.

23. Sub-section (5) of section *sixty-eight* of the principal Act is hereby deleted and the following sub-sections substituted therefor:

“(5) Whenever any person has without the permission of the Mining Commissioner erected any structure on land held under mining title, the Mining Commissioner may direct him to remove it, and if it be not removed within a period specified by the Mining Commissioner, the latter may cause it to be removed and may recover the cost of removal from such person.

(6) Any competent court may, on the application of the Mining Commissioner, order the ejectment of any person from any structure referred to in sub-section (5)”.

Insertion of new  
section 68bis in  
Act 35 of 1908.

24. The following new section is hereby inserted in the principal Act after section *sixty-eight*:

“Transfer of surface right  
whom any permission to use the surface of pro-  
claimed land has been granted under this Chapter  
or any corresponding provisions of a prior law  
for purposes incidental to mining on land held  
under mining title or whenever such permission  
is no longer properly exercised, the Mining Com-  
missioner may in his discretion on the application  
of any holder of other mining title transfer such  
permission by endorsement of the relevant permit  
in respect of the whole of such land or in respect of  
any portion thereof to such applicant for purposes  
incidental to mining on land held under such other  
mining title or he may on the application of  
the permit holder by endorsement make such  
permit available for purposes incidental to mining  
on land held under other mining title held by him  
and any such endorsement shall be recorded in  
the Mining Titles Office.

(2) Save as is otherwise in this Act provided, a permission to use the surface of proclaimed land or land held under mining title for purposes incidental to mining shall *ipso facto* lapse upon the lapsing of the mining title to which it relates”.

Substitution of  
section 72 of Act  
35 of 1908.

25. Section *seventy-two* of the principal Act is hereby repealed and the following section substituted therefor:

“Use of pro-  
claimed land  
to the confirmation of the Minister, permit the  
for agricul-  
ture or use of the surface of any proclaimed land for  
afforestation, agriculture or afforestation: Provided that—

- (a) such permission shall not be granted in the case of private land except upon the written request or with the written consent of the owner and upon conditions to which he agrees;  
(b) such permission shall not be granted if, in the opinion of the Government Mining Engineer, the land is required for mining purposes or purposes incidental to mining;  
(c) if in the opinion of the Government Mining Engineer the land is not immediately required for mining purposes or purposes incidental to mining, but is likely at a later date to be so required, the permission shall contain such provisions for its cancellation as the Mining Commissioner may determine and if any portion of such land is at any time thereafter required for mining or purposes incidental to mining, the permission in so far as it applies to that portion may be cancelled by the Mining Commissioner in accordance with such provisions and without payment of compensation to the holder of the permission:  
(d) if in the opinion of the Government Mining Engineer the land is not likely at any time to be required for mining or purposes incidental to mining and such land or any portion



22. Artikel *twee-en-vyftig* van die Hoofwet word hiermee gewysig deur paragrawe (b) en (c) van sub-artikel (1) te skrap en te vervang deur die volgende paragrawe:

Wysiging van artikel 52 van Wet 35 van 1908.

- „(b) any land reserved under section *twenty-three*, unless such land has been selected by or for the holder of the mineral rights as a mijnpacht or mining lease area ;
- (c) any locality or place mentioned in sub-section (1) of section *sixteen*, unless any person is by virtue of the proviso to that sub-section entitled to prospect thereon ”.

23. Sub-artikel (5) van artikel *agt-en-sestig* van die Hoofwet word hiermee geskrap en deur die volgende sub-artikels vervang :—

Wysiging van artikel 63 van Wet 35 van 1908.

- „(5) Whenever any person has without the permission of the Mining Commissioner erected any structure on land held under mining title, the Mining Commissioner may direct him to remove it, and if it be not removed within a period specified by the Mining Commissioner, the latter may cause it to be removed and may recover the cost of removal from such person.

- (6) Any competent court may, on the application of the Mining Commissioner, order the ejectment of any person from any structure referred to in sub-section (5) ”.

24. Die volgende nuwe artikel word hiermee na artikel *agt-en-sestig* in die Hoofwet ingevoeg :—

Invoeging van nuwe artikel 68bis in Wet 35 van 1908.

„Transfer of surface right permit by endorsement. 68bis. (1) With the consent of the person to whom any permission to use the surface of proclaimed land has been granted under this Chapter or any corresponding provisions of a prior law for purposes incidental to mining on land held under mining title or whenever such permission is no longer properly exercised, the Mining Commissioner may in his discretion on the application of any holder of other mining title transfer such permission by endorsement of the relevant permit in respect of the whole of such land or in respect of any portion thereof to such applicant for purposes incidental to mining on land held under such other mining title or he may on the application of the permit holder by endorsement make such permit available for purposes incidental to mining on land held under other mining title held by him and any such endorsement shall be recorded in the Mining Titles Office.

- (2) Save as is otherwise in this Act provided, a permission to use the surface of proclaimed land or land held under mining title for purposes incidental to mining shall *ipso facto* lapse upon the lapsing of the mining title to which it relates ”.

25. Artikel *twee-en-sewentig* van die Hoofwet word hiermee herroep en deur die volgende artikel vervang :—

Vervanging van artikel 72 van Wet 35 van 1908.

„Use of proclaimed land for agriculture or afforestation. 72. (1) The Mining Commissioner may, subject to the confirmation of the Minister, permit the use of the surface of any proclaimed land for agriculture or afforestation: Provided that—

- (a) such permission shall not be granted in the case of private land except upon the written request or with the written consent of the owner and upon conditions to which he agrees ;
- (b) such permission shall not be granted if, in the opinion of the Government Mining Engineer, the land is required for mining purposes or purposes incidental to mining ;
- (c) if in the opinion of the Government Mining Engineer the land is not immediately required for mining purposes or purposes incidental to mining, but is likely at a later date to be so required, the permission shall contain such provisions for its cancellation as the Mining Commissioner may determine and if any portion of such land is at any time thereafter required for mining or purposes incidental to mining, the permission in so far as it applies to that portion may be cancelled by the Mining Commissioner in accordance with such provisions and without payment of compensation to the holder of the permission ;
- (d) if in the opinion of the Government Mining Engineer the land is not likely at any time to be required for mining or purposes incidental to mining and such land or any portion

thereof is nevertheless thereafter required for such purposes, the permission in so far as it applies to the land so required may be cancelled by the Mining Commissioner, subject to payment by the person requiring the land for those purposes of such compensation to the holder of the permission for any damage which may be caused to any crops or trees thereon or to any improvements made thereon or in connection therewith as shall, in the absence of agreement, be determined by arbitration;

- (e) any open proclaimed land in respect of which permission has been given by the Mining Commissioner under this section shall not be open for prospecting, pegging or digging, but the Governor-General may, at any time thereafter and from time to time, deal with such land in any of the ways mentioned in section *thirty*, and the Minister may permit prospecting thereon and grant mining leases thereon under the provisions of this Act; and the Mining Commissioner may thereupon cancel such permission or so much of it as may be necessary, subject to payment of compensation in terms of paragraph (d).

(2) Any such permission shall include the right to make any improvements reasonably necessary in connection with the use of the land in question, subject to such restrictions as the Mining Commissioner may think fit to impose from time to time.

(3) Whenever permission has been granted to use the surface of any proclaimed land in terms of this section, the Governor-General may nevertheless use or permit its use for any of the purposes mentioned in section *sixty-nine* or *seventy-one*, subject to payment of compensation in terms of paragraph (d) of sub-section (1).

Amendment of section 74 of Act 35 of 1908.

26. Sub-section (1) of section *seventy-four* of the principal Act is hereby amended by the insertion after the word "land" of the words "or to use the surface of any such land for the working or treatment of tailings, slimes, waste rock or other residues or for the re-depositing thereof or for the cleaning up of the surface of a mine."

Insertion of new section 74bis in Act 35 of 1908.

27. The following new section is hereby inserted in the principal Act after section *seventy-four* :—

"Mortgage or transfer of surface rights. 74bis. Any rights acquired under any permission granted under section *sixty-nine*, *seventy-one*, *seventy-two*, *seventy-three* or *seventy-four* or under any corresponding provision of a prior law, may be mortgaged or transferred either wholly or in part by the holder thereof; and every such mortgage or transfer shall be registered in accordance with the law governing the registration of mining title".

Amendment of section 75 of Act 35 of 1908.

28. Section *seventy-five* of the principal Act is hereby amended by the deletion of sub-section (1) and the substitution thereof of the following sub-section :—

"(1) The Mining Commissioner may permit the use of the surface of any proclaimed land for the purpose of brickmaking and limeburning and quarrying and the digging for sand and gravel in accordance with regulations: Provided that—

- (a) in the case of private proclaimed land there is produced to him the written consent of the person who has the right to dig for and remove the material in question; and
- (b) in the case of land held under mining title, the Government Mining Engineer has also certified that no interference will be caused to the mining of such land; and
- (c) in the case of proclaimed Crown land not held under base metal licence the permission of the Mining Commissioner has been obtained to the digging for and removal of the material in question.

Any such permission may include the erection of buildings and structures for such purposes incidental thereto as the Mining Commissioner may approve. Such royalty as may be prescribed by regulation shall, in addition to the fee payable under sub-section (2), be payable in respect of any article sold which was produced with permission granted under paragraph (c)".

thereof is nevertheless thereafter required for such purposes, the permission in so far as it applies to the land so required may be cancelled by the Mining Commissioner, subject to payment by the person requiring the land for those purposes of such compensation to the holder of the permission for any damage which may be caused to any crops or trees thereon or to any improvements made thereon or in connection therewith as shall, in the absence of agreement, be determined by arbitration;

(e) any open proclaimed land in respect of which permission has been given by the Mining Commissioner under this section shall not be open for prospecting, pegging or digging, but the Governor-General may, at any time thereafter and from time to time, deal with such land in any of the ways mentioned in section *thirty*, and the Minister may permit prospecting thereon and grant mining leases thereon under the provisions of this Act; and the Mining Commissioner may thereupon cancel such permission or so much of it as may be necessary, subject to payment of compensation in terms of paragraph (d).

(2) Any such permission shall include the right to make any improvements reasonably necessary in connection with the use of the land in question, subject to such restrictions as the Mining Commissioner may think fit to impose from time to time.

(3) Whenever permission has been granted to use the surface of any proclaimed land in terms of this section, the Governor-General may nevertheless use or permit its use for any of the purposes mentioned in section *sixty-nine* or *seventy-one*, subject to payment of compensation in terms of paragraph (d) of sub-section (1).

26. Sub-artikel (1) van artikel *vier-en-sewentig* van die Hoofwet word hiermee gewysig deur die volgende woorde na die woord „land” in te voeg: „or to use the surface of any such land for the working or treatment of tailings, slimes, waste rock or other residues or for the redepositing thereof or for the cleaning up of the surface of a mine”.

Wysiging van artikel 74 van Wet 35 van 1908.

27. Die volgende nuwe artikel word hiermee na artikel *vier-en-sewentig* in die Hoofwet ingevoeg:—

„Mortgage or transfer of surface rights.

74bis. Any rights acquired under any permission granted under section *sixty-nine*, *seventy-one*, *seventy-two*, *seventy-three* or *seventy-four* or under any corresponding provision of a prior law, may be mortgaged or transferred either wholly or in part by the holder thereof; and every such mortgage or transfer shall be registered in accordance with the law governing the registration of mining title”.

Invoeging van nuwe artikel 74bis in Wet 35 van 1908.

28. Artikel *vyf-en-sewentig* van die Hoofwet word hiermee gewysig deur sub-artikel (1) te skrap en te vervang deur die volgende sub-artikel:—

Wysiging van artikel 75 van Wet 35 van 1908.

„(1) The Mining Commissioner may permit the use of the surface of any proclaimed land for the purpose of brickmaking and limeburning and quarrying and the digging for sand and gravel in accordance with regulations: Provided that—

(a) in the case of private proclaimed land there is produced to him the written consent of the person who has the right to dig for and remove the material in question; and

(b) in the case of land held under mining title, the Government Mining Engineer has also certified that no interference will be caused to the mining of such land; and

(c) in the case of proclaimed Crown land not held under base metal licence the permission of the Mining Commissioner has been obtained to the digging for and removal of the material in question.

Any such permission may include the erection of buildings and structures for such purposes incidental thereto as the Mining Commissioner may approve. Such royalty as may be prescribed by regulation shall, in addition to the fee payable under sub-section (2), be payable in respect of any article sold which was produced with permission granted under paragraph (c).

Substitution of  
section 76 of Act  
35 of 1908.

29. (1) Section *seventy-six* of the principal Act is hereby repealed and the following section substituted therefor:

"Permit for use of certain buildings on proclaimed land. 76. (1) If any person claims to have any colour of a right to the use of any building on proclaimed land which is capable of beneficial use, he may apply to the Mining Commissioner for a permit, referred to in sub-section (2).

(2) If the Mining Commissioner is of opinion that the applicant has in fact a colour of a right to the use of the building to which the application relates and that such building is capable of beneficial use, he may issue to the applicant a permit authorizing him and his successors in title to use, for the purposes specified in such permit and upon the conditions stated therein, the said building and so much land surrounding it as is, in the opinion of the Mining Commissioner, reasonably necessary in connection with the use of the building.

(3) Before the Mining Commissioner issues such permit, the applicant shall furnish him with a diagram or, if approved by the Mining Commissioner, with a sketch plan, showing the area in respect whereof the permit is to be issued.

(4) The Mining Commissioner may in his discretion refuse any application for any such permit notwithstanding that the applicant has a colour of a right to the use of the building in question and that the said building is capable of beneficial use: Provided that the applicant may within a period of fourteen days after having been informed of such refusal appeal therefrom to the Minister, who may thereupon dismiss the appeal or direct the Mining Commissioner to issue, subject to the provisions of sub-section (3), a permit referred to in sub-section (2), specifying such use and stating such conditions as the Minister may determine.

(5) Every such permit shall be registered in the Mining Titles Office and the rights thereunder may be leased, transferred or encumbered by mortgage or servitude, subject to the laws governing the registration of mining title, and subject also to the production of a clearance certificate showing that all municipal rates for a period of two years immediately preceding the date of transfer or mortgage have been paid: Provided that no transfer or mortgage of the rights under any such permit shall be registered unless a diagram of the area to which the permit relates is lodged or has previously been lodged with the Registrar of Mining Titles: Provided, further, that nothing in this section contained shall affect the provisions of sub-section (4) of section *eighty-eight* of the Insolvency Act, 1916 (Act No. 32 of 1916).

(6) The holder of any such permit shall pay to the Mining Commissioner a rent to be fixed by him which shall thereafter not be varied: Provided that if the building to which such permit relates is situate on private land the Mining Commissioner shall consult the owner of such land before fixing the rent.

(7) The Mining Commissioner shall pay one-half of the rent recovered to the said owner.

(8) Whenever rent due in respect of any such permit is nine months in arrear all rights under the permit shall terminate and the permit shall be cancelled by the Mining Commissioner".

(2) The provisions of section *seventy-six* of the principal Act as amended by this section shall apply, *mutatis mutandis*, in the case of any person who is in lawful occupation of any proclaimed land under a permit issued under section *seventy-six* of the principal Act prior to the commencement of this Act.

Amendment of  
section 78 of Act  
35 of 1908.

30. Section *seventy-eight* of the principal Act is hereby amended by the addition at the end thereof of the following words: "In granting any application for a stand under this section the Mining Commissioner may attach to the grant such conditions as he may deem necessary, and in particular he may restrict the use of such stand to a particular purpose".



29. (1) Artikel *ses-en-sewentig* van die Hoofwet word hiermee herroep en deur die volgende artikel vervang:—

Vervanging van artikel 76 van Wet 35 van 1908.

„Permit for use of certain buildings on proclaimed land.

76. (1) If any person claims to have any colour of a right to the use of any building on proclaimed land which is capable of beneficial use, he may apply to the Mining Commissioner for a permit, referred to in sub-section (2).

(2) If the Mining Commissioner is of opinion that the applicant has in fact a colour of a right to the use of the building to which the application relates and that such building is capable of beneficial use, he may issue to the applicant a permit authorizing him and his successors in title to use, for the purposes specified in such permit and upon the conditions stated therein, the said building and so much land surrounding it as is, in the opinion of the Mining Commissioner, reasonably necessary in connection with the use of the building.

(3) Before the Mining Commissioner issues such permit, the applicant shall furnish him with a diagram or, if approved by the Mining Commissioner, with a sketch plan, showing the area in respect whereof the permit is to be issued.

(4) The Mining Commissioner may in his discretion refuse any application for any such permit notwithstanding that the applicant has a colour of a right to the use of the building in question and that the said building is capable of beneficial use: Provided that the applicant may within a period of fourteen days after having been informed of such refusal appeal therefrom to the Minister; who may thereupon dismiss the appeal or direct the Mining Commissioner to issue, subject to the provisions of sub-section (3), a permit referred to in sub-section (2), specifying such use and stating such conditions as the Minister may determine.

(5) Every such permit shall be registered in the Mining Titles Office and the rights thereunder may be leased, transferred or encumbered by mortgage or servitude, subject to the laws governing the registration of mining title, and subject also to the production of a clearance certificate showing that all municipal rates for a period of two years immediately preceding the date of transfer or mortgage have been paid: Provided that no transfer or mortgage of the rights under any such permit shall be registered unless a diagram of the area to which the permit relates is lodged or has previously been lodged with the Registrar of Mining Titles: Provided, further, that nothing in this section contained shall affect the provisions of sub-section (4) of section *eighty-eight* of the Insolvency Act, 1916 (Act No. 32 of 1916).

(6) The holder of any such permit shall pay to the Mining Commissioner a rent to be fixed by him which shall thereafter not be varied: Provided that if the building to which such permit relates is situate on private land the Mining Commissioner shall consult the owner of such land before fixing the rent.

(7) The Mining Commissioner shall pay one-half of the rent recovered to the said owner.

(8) Whenever rent due in respect of any such permit is nine months in arrear all rights under the permit shall terminate and the permit shall be cancelled by the Mining Commissioner ”.

(2) Die bepalings van artikel *ses-en-sewentig* van die Hoofwet, soos deur hierdie artikel gewysig, is, *mutatis mutandis*, van toepassing in die geval van iemand wat in wettige okkupasie is van geproklameerde grond kragtens 'n permit; wat voor die inwerkingtrede van hierdie Wet ingevolge artikel *ses-en-sewentig* van die Hoofwet uitgereik is.

30. Artikel *agt-en-sewentig* van die Hoofwet word hiermee gewysig deur die volgende woorde aan die end toe te voeg: „In granting any application for a stand under this section the Mining Commissioner may attach to the grant such conditions as he may deem necessary, and in particular he may restrict the use of such stand to a particular purpose ”.

Wysiging van artikel 78 van Wet 35 van 1908.

Amendment of  
section 79 of Act  
35 of 1908.

31. Section *seventy-nine* of the principal Act is hereby amended by the addition to sub-section (1) of the following proviso:

"Provided that the provisions of section *seventy-eight* shall apply in respect of the powers of the Mining Commissioner to attach conditions to the grant of any such stand and no such stand shall be granted for any purposes other than purposes incidental to mining except with the written consent of the owner of such land and on such conditions as he and the Mining Commissioner may prescribe, and before granting any such stand within the area of jurisdiction of a local authority the Mining Commissioner shall give such authority opportunity to lodge objections and be heard as an objector to such grant".

Insertion of new  
section 79bis in  
Act 35 of 1908.

32. The following new section is hereby inserted in the principal Act after section *seventy-nine* :—

"Penalties 79bis. (1) Where a stand has been granted prior to the first day of July, 1934, under section *seventy-eight* or *seventy-nine* subject to any conditions, the use of such stand shall be restricted in accordance with such conditions.

(2) Any person contravening or failing to comply with any condition referred to in sub-section (1) or imposed under section *seventy-eight* or *seventy-nine* shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in section *ninety-six*, and in the event of such a contravention or non-compliance the Mining Commissioner may cancel the licence in respect of the stand in question".

Amendment of  
section 81 of Act  
35 of 1908.

33. Sub-section (2) of section *eighty-one* of the principal Act is hereby deleted and the following sub-section substituted therefor :—

"(2) Before a stand licence is issued under this Chapter, the person applying therefor shall lodge with the Mining Commissioner—

- (a) a diagram of the stand, if it is situate in a district comprised in Class A referred to in section *seven*; or
- (b) a diagram or a sketch plan of the stand as directed by the Mining Commissioner, if the stand is situate in any other district".

Insertion of new  
section 81bis in  
Act 35 of 1908.

34. The following new section is hereby inserted in the principal Act after section *eighty-one* :—

"Abandonment of stand licences and how certain stands may be dealt with. 81bis. (1) When the holder of a licence for any stand mentioned in section *seventy-seven*, *seventy-eight* or *seventy-nine* gives written notice to the Mining Commissioner that he has abandoned or intends to abandon such stand, the Mining Commissioner may cancel the licence: Provided that if the stand is leased, mortgaged or otherwise encumbered, the consent of all the persons interested in the licence shall be produced before the cancellation is effected.

(2) Any stand, the licence for which has been cancelled under sub-section (1), or any stand which has been put up for sale under section *ninety-nine* or *one hundred and two* but not sold, or which has been cancelled by the Mining Commissioner in accordance with any conditions attached to the grant thereof may be dealt with by the Minister in his discretion in terms of section *ninety-nine* or may be declared by him to have ceased to exist, in which case the land formerly constituting such stand (unless it is a place referred to in paragraph (a) of sub-section (1) of section *fifty-two*) may be dealt with by the Governor-General in any of the ways provided by section *thirty*: Provided that if the stand is situate on deproclaimed land and the licence therefor has been determined and cancelled under sub-section (3) of section *thirty-one*, it shall be declared by the Minister to have ceased to exist".

Amendment of  
section 98 of Act  
35 of 1908.

35. Section *ninety-eight* of the principal Act is hereby amended—

- (a) by the deletion of the words "Any person described in the last preceding section who" in the preamble to sub-section (1) and the substitution therefor of the words "Any person referred to in paragraph (a), (b) or (c) of sub-section (1) of section *ninety-seven*";
- (b) by the addition of the following new sub-paragraphs at the end of paragraph (a) of sub-section (1):
  - "(vi) to the Postmaster-General for the purpose of deposit on behalf of such employee in any savings bank or in any savings club established under the

31. Artikel *negen-en-sewentig* van die Hoofwet word hiermee gewysig deur die volgende voorbehoudsbepaling aan sub-artikel (1) toe te voeg:

Wysiging van artikel 79 van Wet 35 van 1908.

"Provided that the provisions of section *seventy-eight* shall apply in respect of the powers of the Mining Commissioner to attach conditions to the grant of any such stand and no such stand shall be granted for any purposes other than purposes incidental to mining except with the written consent of the owner of such land and on such conditions as he and the Mining Commissioner may prescribe, and before granting any such stand within the area of jurisdiction of a local authority the Mining Commissioner shall give such authority opportunity to lodge objections and be heard as an objector to such grant.

32. Die volgende nuwe artikel word hiermee na artikel *negen-en-sewentig* in die Hoofwet ingevoeg:—

Invoeging van nuwe artikel 79bis in Wet 35 van 1908.

„Penalties for contravention of condition on which stand is granted.

79bis. (1) Where a stand has been granted prior to the first day of July, 1934, under section *seventy-eight* or *seventy-nine* subject to any conditions, the use of such stand shall be restricted in accordance with such conditions.

(2) Any person contravening or failing to comply with any condition referred to in sub-section (1) or imposed under section *seventy-eight* or *seventy-nine* shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in section *ninety-six*, and in the event of such a contravention or non-compliance the Mining Commissioner may cancel the licence in respect of the stand in question.

33. Sub-artikel (2) van artikel *een-en-tagtig* van die Hoofwet word hiermee geskrap en deur die volgende sub-artikel vervang:—

Wysiging van artikel 81 van Wet 35 van 1908.

„(2) Before a stand licence is issued under this Chapter, the person applying therefor shall lodge with the Mining Commissioner—

(a) a diagram of the stand, if it is situate in a district comprised in Class A referred to in section *seven*; or

(b) a diagram or a sketch plan of the stand as directed by the Mining Commissioner, if the stand is situate in any other district.

34. Die volgende nuwe artikel word hiermee na artikel *een-en-tagtig* in die Hoofwet ingevoeg:—

Invoeging van nuwe artikel 81bis in Wet 35 van 1908.

„Abandonment of stand licences and how certain stands may be dealt with.

81bis. (1) When the holder of a licence for any stand mentioned in section *seventy-seven*, *seventy-eight* or *seventy-nine* gives written notice to the Mining Commissioner that he has abandoned or intends to abandon such stand, the Mining Commissioner may cancel the licence: Provided that if the stand is leased, mortgaged or otherwise encumbered, the consent of all the persons interested in the licence shall be produced before the cancellation is effected.

(2) Any stand, the licence for which has been cancelled under sub-section (1), or any stand which has been put up for sale under section *ninety-nine* or *one hundred and two* but not sold, or which has been cancelled by the Mining Commissioner in accordance with any conditions attached to the grant thereof may be dealt with by the Minister in his discretion in terms of section *ninety-nine* or may be declared by him to have ceased to exist, in which case the land formerly constituting such stand (unless it is a place referred to in paragraph (a) of sub-section (1) of section *fifty-two*) may be dealt with by the Governor-General in any of the ways provided by section *thirty*: Provided that if the stand is situate on deproclaimed land and the licence therefor has been determined and cancelled under sub-section (3) of section *thirty-one*, it shall be declared by the Minister to have ceased to exist.

35. Artikel *agt-en-negentig* van die Hoofwet word hiermee gewysig—

Wysiging van artikel 98 van Wet 35 van 1908.

(a) deur die woorde „Any person described in the last preceding section who” in die aanhef van sub-artikel (1) te skrap en te vervang deur die woorde „Any person referred to in paragraph (a), (b) or (c) of sub-section (1) of section *ninety-seven*”;

(b) deur die volgende nuwe sub-paragrafe aan die end van paragraaf (a) van sub-artikel (1) by te voeg:—

„(vi) to the Postmaster-General for the purpose of deposit on behalf of such employee in any savings bank or in any savings club established under the

- authority of the Postmaster-General, or for investment in any Government stock or fund sold or administered by the Postmaster-General; or
- (vii) to any educational institution for the payment of fees in respect of any educational classes attended by such employee; or
- (viii) to any Provident or Pension Fund," and
- (c) by the addition of the following words at the end of sub-section (2) : " save only when given for any of the purposes referred to in sub-section (1) (a) hereof."
- Amendment of section 99 of Act 35 of 1908. 36. Sub-section (3) of section *ninety-nine* of the principal Act is hereby amended by the addition thereto of the following proviso :—
- " Provided that if the Minister is satisfied that any such stand is no longer necessary, he may dispense with such advertisement and sale, and on the expiration of fourteen days' notice served by the Mining Commissioner upon the registered holder of the licence, and upon the registered holder of any mortgage bond over such stand, calling upon them to pay up all arrear licence moneys, together with any additional sums and costs due in connection with such stand licence, the Mining Commissioner may cancel the licence and thereupon such stand shall be deemed to have ceased to exist, and if on proclaimed land may (unless it is a place referred to in paragraph (a) of sub-section (1) of section *fifty-two*) be dealt with by the Governor-General in any of the ways provided by section *thirty*."
- Amendment of section 102 of Act 35 of 1908. 37. Section *one hundred and two* of the principal Act is hereby amended by the insertion, after the words "*ninety-nine*", of the words "(other than the proviso to sub-section (3), which shall be deemed to be inserted at the end of sub-section (3) of this section)".
- Amendment of section 104 of Act 35 of 1908. 38. The definition of the expression "unwrought precious metal" in section *one hundred and four* of the principal Act, as amended by section *three* of Act No. 18 of 1913, is hereby deleted and the following new definition substituted therefor :—
- " 'Unwrought precious metal' shall mean any unmanufactured precious metal in any form whatsoever or any article or substance containing such precious metal or any article consisting of, or containing, precious metal which, although manufactured, is, as such, not an article of commerce or a work of art or an article of archaeological interest."
- Amendment of section 118 of Act 35 of 1908. 39. Section *one hundred and eighteen* of the principal Act is hereby repealed and the following section substituted therefor :—
- Disabilities 118. (1) If a person who is the holder of any entailed by licence to carry on any trade, business or occupation conviction. is convicted of any offence under this Chapter, the conviction shall have the effect of cancelling such licence.
- (2) A person convicted as aforesaid shall within a period of five years as from the date of his conviction not be entitled to obtain any such licence as aforesaid authorizing him to carry on any trade, business or occupation within a proclaimed field or within a radius of five miles therefrom, and if any such licence is issued to him during the said period, it shall be void."
- Amendment of section 119 of Act 35 of 1908. 40. Section *one hundred and nineteen* of the principal Act is hereby amended :—
- (a) by the deletion of paragraph (2) and the substitution of the following paragraph :
- " (2) the maximum number of claims which may be pegged in accordance with section *thirty-two* shall be one hundred "
- (b) by the deletion of all the words after the words "precious metals" in sub-paragraph (b) of paragraph (8) and the substitution therefor of the words : "have been worked in combination with such base metals and that the base metals do not preponderate in value "
- Amendment of section 120 of Act 35 of 1908. 41. Section *one hundred and twenty* of the principal Act is hereby amended by the deletion of all the words preceding the words "the Governor" and the substitution therefor of the following words :
- " Whenever in the course of mining any base metal on private land, precious metal is mined in combination with such base metal and the gross value of the precious metal won or recovered exceeds that of the base metal won or recovered by twenty-five per cent. over a period of three successive years "



authority of the Postmaster-General, or for investment in any Government stock or fund sold or administered by the Postmaster-General; or (vii) to any educational institution for the payment of fees in respect of any educational classes attended by such employee; or

(viii) to any Provident or Pension Fund"; en

(c) deur die volgende woorde by die end van sub-artikel (2) toe te voeg "save only when given for any of the purposes referred to in sub-section (1) (a) hereof".

36. Sub-artikel (3) van artikel *neg-en-negentig* van die Hoofwet word hiermee gewysig deur die volgende voorbehoudsbepaling daaraan toe te voeg:—

Wysiging van artikel 99 van Wet 35 van 1908.

„Provided that if the Minister is satisfied that any such stand is no longer necessary, he may dispense with such advertisement and sale, and on the expiration of fourteen days' notice served by the Mining Commissioner upon the registered holder of the licence, and upon the registered holder of any mortgage bond over such stand, calling upon them to pay up all arrear licence moneys, together with any additional sums and costs due in connection with such stand licence, the Mining Commissioner may cancel the licence and thereupon such stand shall be deemed to have ceased to exist, and if on proclaimed land may (unless it is a place referred to in paragraph (a) of sub-section (1) of section *fifty-two*) be dealt with by the Governor-General in any of the ways provided by section *thirty*".

37. Artikel *honderd-en-twee* van die Hoofwet word hiermee gewysig deur invoeging, na die woorde „*ninety-nine*" van die woorde „(other than the proviso to sub-section (3), which shall be deemed to be inserted at the end of sub-section (3) of this section)".

Wysiging van artikel 102 van Wet 35 van 1908.

38. Die omskrywing van die uitdrukking „unwrought precious metal" in artikel *honderd-en-vier* van die Hoofwet, soos gewysig deur artikel *drie* van Wet No. 18 van 1913, word hiermee geskrap en deur die volgende nuwe omskrywing vervang:—

Wysiging van artikel 104 van Wet 35 van 1908.

„Unwrought precious metal" shall mean any unmanufactured precious metal in any form whatsoever or any article or substance containing such precious metal or any article consisting of, or containing, precious metal which, although manufactured, is, as such, not an article of commerce or a work of art or an article of archaeological interest".

39. Artikel *honderd-en-agtien* van die Hoofwet word hiermee herroep en deur die volgende artikel vervang:—

Wysiging van artikel 118 van Wet 35 van 1908.

118. (1) If a person who is the holder of any licence to carry on any trade, business or occupation is convicted of any offence under this Chapter, the conviction shall have the effect of cancelling such licence.

(2) A person convicted as aforesaid shall within a period of five years as from the date of his conviction not be entitled to obtain any such licence as aforesaid authorizing him to carry on any trade, business or occupation within the proclaimed field or within a radius of five miles therefrom, and if any such licence is issued to him during the said period, it shall be void".

40. Artikel *honderd-en-negentien* van die Hoofwet word hiermee gewysig—

Wysiging van artikel 119 van Wet 35 van 1908.

(a) deur paragraaf (2) te skrap en te vervang deur die volgende paragraaf:—

„(2) the maximum number of claims which may be pegged in accordance with section *thirty-two* shall be one hundred";

(b) deur al die woorde na die woorde „precious metals" in sub-paragraaf (b) van paragraaf (8) te skrap, en te vervang deur die woorde: „have been worked in combination with such base metals and that the base metals do not preponderate in value".

41. Artikel *honderd-en-twintig* van die Hoofwet word hiermee gewysig deur al die woorde wat aan die woorde „the Governor" voorafgaan, te skrap en te vervang deur die volgende woorde:—

Wysiging van artikel 120 van Wet 35 van 1908.

„Whenever in the course of mining any base metal on private land, precious metal is mined in combination with such base metal and the gross value of the precious metal won or recovered exceeds that of the base metal won or recovered by twenty-five per cent. over a period of three successive years".

Amendment of section 127 of Act 35 of 1908.

Insertion of new section 127bis in Act 35 of 1908.

42. Sub-section (10) of section *one hundred and twenty-seven* of the principal Act is hereby amended by the deletion after the word "price" of all the words to the end of the sub-section and the substitution therefor of the words "mutually agreed upon between the Minister and the holder of the mining title or, failing agreement, to be determined by arbitration."

43. The following new section is hereby inserted in the principal Act after section *one hundred and twenty-seven*:

"Further provisions for prevention of suspension, curtailment or cessation of mining operations."

127bis. (1) Whenever the Minister is satisfied, on the report of the Government Mining Engineer, that any holder of mining title is in danger of having to curtail, suspend, or cease mining operations, the Governor-General may, after notice to the holder of the mining title and to any mortgagee thereof, appoint a commission to enquire into the matter and report thereon to him and the provisions of sub-sections (3), (4) and (5) of section *one hundred and twenty-seven* shall *mutatis mutandis* apply to such commission.

(2) If after considering the commission's report the Minister is of opinion that curtailment, suspension or cessation of mining operations by the holder of the mining title is in danger of taking place, and that adequate steps can be taken to remove that danger, the Governor-General may call upon the holder of the mining title by written notice, to effect such removal within a period to be fixed in such notice, and if within such period the holder of the mining title fails to give effect to such notice he shall, notwithstanding anything in this Act or any other law contained, be debarred from exercising any rights held by him under his mining title and the Governor-General may dispose of such rights in the manner provided in sub-section (6) of section *one hundred and twenty-seven* and the provisions of sub-sections (7), (8), (9), (10), (11) and (12) of that section shall thereupon apply.

(3) Whenever the holder of mining title is debarred under this section or under sub-section (6) of section *one hundred and twenty-seven* from exercising his rights held under such title, the Government Mining Engineer and any person authorized by him shall have access to the land to which such title relates and may carry out any work necessary to prevent damage to any mine or works on the said land."

Amendment of section 136 of Act 35 of 1908.

44. Section *one hundred and thirty-six* of the principal Act is hereby amended—

(a) by the deletion of paragraph (6) and the substitution of the following new paragraph:

"(6) Any person who unlawfully occupies, resides upon, or uses any proclaimed land, shall be liable on conviction to a fine not exceeding one hundred pounds, and any Court convicting him may order his ejectment from such land"; and

(b) by the addition at the end of paragraph (8) of the following words:

"The fact that the property damaged belonged wholly or in part to the accused shall not exonerate him from liability."

Substitution of section 137 of Act 35 of 1908.

45. Section *one hundred and thirty-seven* of the principal Act is hereby repealed and the following section substituted therefor:

"State land 137. All State land proclaimed a public digging for the mining of precious metals under the provisions of Law No. 15 of 1898 (Transvaal) or of a prior law to be deemed under this Act upon the first day of January, 1909, a public digging for the mining of base metals."

Substitution of section 138 of Act 35 of 1908.

46. The following section is hereby substituted for the repealed section *one hundred and thirty-eight* of the principal Act:

"Permit to retain and treat tailings, slimes, etc., on lapsed claims. 138. (1) The holder of any mining title who proposes to abandon such title or to allow it to lapse or who has already abandoned such title or allowed it to lapse may, subject to the provisions of this section, obtain a licence to retain possession of and treat or otherwise utilize any tailings, slimes, waste rock or other residues on any proclaimed land held or formerly held under such mining title, which were produced therefrom prior to such abandonment or lapsing."

42. Sub-artikel (10) van artikel *honderd-seven-en-twintig* van die Hoofwet word hiermee gewysig deur na die woord „price” alle woorde te skrap tot by die end van die sub-artikel en te vervang deur die woorde „mutually agreed upon between the Minister and the holder of the mining title or, failing agreement, to be determined by arbitration”.

Wysiging van artikel 127 van Wet 35 van 1908.

43. Die volgende nuwe artikel word hiermee na artikel *honderd-seven-en-twintig* in die Hoofwet ingevoeg:—

Invoeging van nuwe artikel 127bis in Wet 35 van 1908.

„Further provisions for prevention of suspension, curtailment or cessation of mining operations. 127bis. (1) Whenever the Minister is satisfied, on the report of the Government Mining Engineer, that any holder of mining title is in danger of having to curtail, suspend, or cease mining operations, the Governor-General may, after notice to the holder of the mining title and to any mortgagee thereof, appoint a commission to enquire into the matter and report thereon to him and the provisions of sub-sections (3), (4) and (5) of section *one hundred and twenty-seven* shall *mutatis mutandis* apply to such commission.

(2) If after considering the commission's report the Minister is of opinion that curtailment, suspension or cessation of mining operations by the holder of the mining title is in danger of taking place, and that adequate steps can be taken to remove that danger, the Governor-General may call upon the holder of the mining title by written notice, to effect such removal within a period to be fixed in such notice, and if within such period the holder of the mining title fails to give effect to such notice he shall, notwithstanding anything in this Act or any other law contained, be debarred from exercising any rights held by him under his mining title and the Governor-General may dispose of such rights in the manner provided in sub-section (6) of section *one hundred and twenty-seven* and the provisions of sub-sections (7), (8), (9), (10), (11) and (12) of that section shall thereupon apply.

(3) Whenever the holder of mining title is debarred under this section or under sub-section (6) of section *one hundred and twenty-seven* from exercising his rights held under such title, the Government Mining Engineer and any person authorized by him shall have access to the land to which such title relates and may carry out any work necessary to prevent damage to any mine or works on the said land”.

44. Artikel *honderd-sees-en-dertig* van die Hoofwet word hiermee gewysig—

Wysiging van artikel 136 van Wet 35 van 1908.

(a) deur paragraaf (6) te skrap en te vervang deur die volgende nuwe paragraaf:

„(6) Any person who unlawfully occupies, resides upon, or uses any proclaimed land, shall be liable on conviction to a fine not exceeding one hundred pounds, and any Court convicting him may order his ejection from such land”; en

(b) deur die volgende woorde aan die end van paragraaf (8) by te voeg:—

„The fact that the property damaged belonged wholly or in part to the accused shall not exonerate him from liability”.

45. Artikel *honderd-seven-en-dertig* van die Hoofwet word hiermee herroep en deur die volgende artikel vervang:—

Vervanging van artikel 137 van Wet 35 van 1908.

„State land proclaimed for precious metals under prior laws to be deemed to have been proclaimed for base metals. 137. All State land proclaimed a public digging for the mining of precious metals under the provisions of Law No. 15 of 1898 (Transvaal) or of a prior law shall be deemed to have been proclaimed under this Act upon the first day of January, 1909, a public digging for the mining of base metals”.

46. Die herroepe artikel *honderd-agt-en-dertig* van die Hoofwet word hiermee deur die volgende artikel vervang:—

Vervanging van artikel 138 van Wet 35 van 1908.

„Permit to retain and treat tailings, slimes, etc., on lapsed claims. 138. (1) The holder of any mining title who proposes to abandon such title or to allow it to lapse or who has already abandoned such title or allowed it to lapse may, subject to the provisions of this section, obtain a licence to retain possession of and treat or otherwise utilize any tailings, slimes, waste rock or other residues on any proclaimed land held or formerly held under such mining title, which were produced therefrom prior to such abandonment or lapsing.

(2) Application for such licence shall be made to the Mining Commissioner who may on receipt of such application and of a fee of twenty shillings, issue a licence in respect thereof for a period of one month. Such licence shall be renewed from time to time by the Mining Commissioner on payment of a further fee of twenty shillings per month.

(3) If, within a period of three months after the abandonment or lapsing of the mining title, or if such abandonment or lapsing took place before the first day of July, 1934, then within three months from that date no application for a licence in respect of any such residues is made by the former holder of such title, or if such licence having been issued, is not renewed within a period of three months from the date of its expiry, such residues shall be deemed to have been abandoned, and the Mining Commissioner may, on application, issue a licence under this section to any person.

(4) Any licence granted under this section may be transferred as to either the whole or a part of the residues referred to therein by the holder thereof: Provided that a separate licence shall be obtained for any transfer in respect of any portion of the residues so transferred. Any licence issued under this section and every transfer thereof shall be registered in accordance with the laws governing the registration of mining title.

(5) One-half of the licence fees paid under this section shall be paid to the owner of the land to which the licence relates.

(6) No licence shall be issued under this section if, in the opinion of the Government Mining Engineer, the land upon which such residues are situate is likely to be required for mining purposes or for purposes incidental to mining and no licence issued under this section shall be renewed if the residues held thereunder are not being worked, treated or otherwise utilised to the satisfaction of the Mining Commissioner or unless he is satisfied that there are good and sufficient reasons for such inactivity."

Addition of Fourth Schedule to Act 35 of 1908. 47. The Schedule to this Act is hereby embodied in the principal Act as the Fourth Schedule thereto.

Amendment of section 5 of Act 34 of 1908 (Transvaal). 48. Section five of the Townships Amendment Act, 1908 (Transvaal) is hereby amended by the deletion of sub-sections (1), (2) and (3) and the substitution therefor of the following sub-sections:—

"(1) Notwithstanding anything in any other law contained, the Governor-General may, whenever he considers it expedient to do so, permit a township to be established on any proclaimed land or land held under any form of mining title.

(2) Any such land required for a township shall be reserved by the Governor-General for a township by notice in the *Gazette*.

(3) The Governor-General may attach special conditions to the establishment of any such township for any purposes incidental to mining or to the proper administration of the proclaimed land or land held under mining title under any law and as soon as may be after such land has been reserved and the said conditions, if any, decided upon, the Administrator shall be advised thereof, and the township shall thereupon be established and administered, subject to the provisions of this Act, and of the Townships and Town Planning Ordinance, 1931 (Ordinance No. 11 of 1931, Transvaal), or any amendment thereof."

Amendment of section 5 of Act 13 of 1910 (Transvaal) as amended by section 1 of Act 10 of 1924. 49. Sub-section (5) of section five of the Trading on Mining Ground Regulation Act, 1910 (Transvaal), as amended, is hereby further amended—

(a) by the deletion of the words " mining commissioner " in the fourth paragraph of that sub-section and the substitution therefor of the words " Commissioner for Inland Revenue or any person deputed by him for that purpose " ;

(b) by the addition of the following new paragraph at the end thereof :

" For the purpose of obtaining full information in respect of such rent the provisions of sections forty-one and forty-two of the Income Tax Act,



(2) Application for such licence shall be made to the Mining Commissioner who may on receipt of such application and of a fee of twenty shillings, issue a licence in respect thereof for a period of one month. Such licence shall be renewed from time to time by the Mining Commissioner on payment of a further fee of twenty shillings per month.

(3) If, within a period of three months after the abandonment or lapsing of the mining title, or if such abandonment or lapsing took place before the first day of July, 1934, then within three months from that date no application for a licence in respect of any such residues is made by the former holder of such title, or if such licence having been issued, is not renewed within a period of three months from the date of its expiry, such residues shall be deemed to have been abandoned, and the Mining Commissioner may, on application, issue a licence under this section to any person.

(4) Any licence granted under this section may be transferred as to either the whole or a part of the residues referred to therein by the holder thereof: Provided that a separate licence shall be obtained for any transfer in respect of any portion of the residues so transferred. Any licence issued under this section and every transfer thereof shall be registered in accordance with the laws governing the registration of mining title.

(5) One-half of the licence fees paid under this section shall be paid to the owner of the land to which the licence relates.

(6) No licence shall be issued under this section if, in the opinion of the Government Mining Engineer, the land upon which such residues are situate is likely to be required for mining purposes or for purposes incidental to mining and no licence issued under this section shall be renewed if the residues held thereunder are not being worked, treated or otherwise utilised to the satisfaction of the Mining Commissioner or unless he is satisfied that there are good and sufficient reasons for such inactivity."

47. Die Bylae tot hierdie Wet word hiermee in die Hoofwet opgeneem as sy Vierde Bylae.

Byvoeging van  
Vierde Bylae tot  
Wet 35 van 1908.

48. Artikel vyf van die „Townships Amendment Act, 1908" (Transvaal) word hiermee gewysig deur sub-artikels (1), (2) en (3) te skrap en te vervang deur die volgende sub-artikels:—

Wysiging van  
artikel 5 van  
Wet 34 van 1908  
(Transvaal).

„(1) Notwithstanding anything in any other law contained, the Governor-General may, whenever he considers it expedient to do so, permit a township to be established on any proclaimed land or land held under any form of mining title.

(2) Any such land required for a township shall be reserved by the Governor-General for a township by notice in the *Gazette*.

(3) The Governor-General may attach special conditions to the establishment of any such township for any purposes incidental to mining or to the proper administration of the proclaimed land or land held under mining title under any law and as soon as may be after such land has been reserved and the said conditions, if any, decided upon, the Administrator shall be advised thereof, and the township shall thereupon be established and administered, subject to the provisions of this Act, and of the Townships and Town Planning Ordinance, 1931 (Ordinance No. 11 of 1931, Transvaal), or any amendment thereof."

49. Sub-artikel (5) van artikel vyf van die „Trading on Mining Ground Regulation Act, 1910" (Transvaal) soas gewysig, word hiermee verder gewysig—

Wysiging van  
artikel 5 van  
Wet 13 van 1910  
(Transvaal) soas  
gewysig deur  
artikel 1 van  
Wet 10 van 1924.

(a) deur die woorde „mining commissioner" in die vierde paragraaf van daardie sub-artikel te skrap en te vervang deur die woorde „Commissioner for Inland Revenue or any person deputed by him for that purpose"; en

(b) deur die volgende nuwe paragraaf aan die end toe te voeg:—

„For the purpose of obtaining full information in respect of such rent the provisions of sections forty-one and forty-two of the Income Tax Act,

1925 (Act No. 40 of 1925) shall *mutatis mutandis* apply".

Amendment of section 1 of Act 19 of 1917.

50. Section one of the Sale of Agricultural Produce on certain Mines Act, 1917 (Act No. 19 of 1917) is hereby amended—

- (a) by the deletion of the words "and milk" in the definition of "agricultural produce" and the substitution therefor of the words "milk, poultry, eggs, leaf tobacco and honey"; and
- (b) by the deletion of the definition of "licensee" and the substitution of the following definition: "licensee" shall mean any individual to whom a licence has been granted in terms of section two of this Act to sell agricultural produce".

Amendment of section 2 of Act 19 of 1917.

51. Section two of the said Act No. 19 of 1917 is hereby amended—

- (i) by the deletion of paragraph (a) and the substitution therefor of the following paragraph:  
" (a) such licence may only be issued on the recommendation of the Miners' Phthisis Board, established by section three of the Miners' Phthisis Acts Consolidation Act, 1925 (Act No. 35 of 1925) to a beneficiary as defined by section seventy-six of the said Act, or to any person who has suffered permanent disability whilst employed on any mine, or who on the date when this paragraph comes into operation, is engaged whether on his own behalf or on behalf of a principal in selling agricultural produce by virtue of a licence issued under this Act"; and
- (ii) by the deletion of paragraph (f) and the substitution therefor of the following paragraph:—  
" (f) every licence shall provide that the sale of agricultural produce thereunder shall be conducted only by or under the personal supervision of the licensee and not by an agent".

Amendment of section 3 of Act 19 of 1917.

52. Section three of the said Act No. 19 of 1917 is hereby amended by the addition thereto of the following new sub-sections (2) and (3), the existing section becoming sub-section (1):—

" (2) Every licensee and every employee of a licensee assisting the latter in the sale of agricultural produce shall produce to the manager of any mine where the licensee is authorized by his licence to sell agricultural produce before commencing business operations at that mine and every six months from the date of the licence or from the date of commencement of the employment of such employee, as the case may be, a certificate from the medical bureau referred to in section ten of the said Act No. 35 of 1925 which is shown by a signed or stamped photograph of the licensee or employee as the case may be to relate to him, stating that the person mentioned therein is medically fit to sell agricultural produce on a mine.

(3) If such licensee sells agricultural produce at any such mine after having failed to produce such a certificate relating to himself or while employing an assistant at such sale who has failed to produce such a certificate relating to such assistant, as required by sub-section (2), the manager of such mine shall inform the Mining Commissioner and the Minister shall thereupon revoke such licence".

Amendment of section 5 of Act 19 of 1917.

53. Section five of the said Act No. 19 of 1917 is hereby amended by the deletion of the words: "or that are not grown or produced by himself or by a member of the combination to which he belongs or in the case of an agent, by his principal".

Amendment of section 6 of Act 19 of 1917.

54. Section six of the said Act No. 19 of 1917 is hereby amended—

- (i) by the deletion in paragraph (a) of the words "Ordinance No. 11 of 1914 (Transvaal)" and the substitution therefor of the words "the law relating to shop hours".
- (ii) by the deletion of paragraph (b) and the substitution therefor of the following paragraph:—  
" (b) the manner in which a licensee or his employees may enter or leave a mine, and the manner in

1925 (Act No. 40 of 1925) shall *mutatis mutandis* apply".

50. Artikel een van die „Verkoop van Landbouwvoortbrengselen op zekere Mijnen Wet, 1917" (Wet No. 19 van 1917) word hiermee gewysig—

Wysiging van artikel 1 van Wet 19 van 1917.

(a) deur die woorde „en melk" in die omskrywing van „landbouwvoortbrengselen" te skrap en te vervang deur die woorde „melk, pluimvee, eieren, bladtabak en honing"; en

(b) deur die omskrywing van „licentiehouders" te skrap en te vervang deur die volgende omskrywing: „betekent „licentiehouders" een individu aan wie ingevolge artikel twee van deze Wet een licentie verleend werd om landbouwvoortbrengselen te verkopen".

51. Artikel twee van voormelde Wet No. 19 van 1917 word hiermee gewysig—

Wysiging van artikel 2 van Wet 19 van 1917.

(i) deur paragraaf (a) te skrap en te vervang deur die volgende paragraaf:—

„(a) zulk een licentie slechts op aanbeveling van de door artikel drie van de Mijnteringenwetten Konsolidatiewet, 1925 (Wet No. 35 van 1925) ingestelde Mijnteringeraad uitgereikt mag worden aan een bevoordeelde, zoals omschreven in artikel zes en zeventig van bedoelde Wet of iemand door wien blijvende ongeschiktheid opgelopen is terwijl hij op een mijn in dienst was, of die op de dag wanneer deze paragraaf in werking treedt, zich, hetzij voor eigen rekening of op rekening van een lastgever, bezig houdt met het verkopen van landbouwvoortbrengselen, krachtens een ingevolge deze Wet uitgereikte licentie"; en

(ii) deur paragraaf (f) te skrap en te vervang deur die volgende paragraaf:—

„(f) iedere licentie bepalen moet dat landbouwvoortbrengselen krachtens die licentie slechts door de licentiehouders of onder zijn persoonlijk toezicht en niet door een lasthebber verkocht mogen worden".

52. Artikel drie van voormelde Wet No. 19 van 1917, word hiermee gewysig deur die volgende nuwe sub-artikels (2) en (3) daaraan toe te voeg, waardeur die bestaande artikel sub-artikel (1) word:—

Wysiging van artikel 3 van Wet 19 van 1917.

„(2) Iedere licentiehouders en iedere bediende van een licentiehouders die laatstbedoelde behulpzaam is bij het verkopen van landbouwvoortbrengselen, moet aan de bestuurder van iedere mijn waar de licentiehouders krachtens zijn licentie gerechtigd is om landbouwvoortbrengselen te verkopen, alvorens bij die mijn handel te drijven en alle zes maanden vanaf de dagtekening van de licentie of, al naar het geval, vanaf de dag waarop bedoelde bediende zijn dienst begonnen is, een certificaat van het geneeskundige bureau, vermeld in artikel tien van voormelde Wet No. 35 van 1925, overleggen, dat op grond van een ondertekend en gestempeld portret van de licentiehouders of bediende, al naar het geval, blijkt op hem betrekking te hebben, waarin verklaard wordt, dat de daarin genoemde persoon geneeskundig geschikt is om landbouwvoortbrengselen bij een mijn te verkopen.

(3) Indien zulk een licentiehouders bij zulk een mijn landbouwvoortbrengselen verkoopt nadat hij verzuimd heeft om zulk een certificaat dat op hemzelf betrekking heeft, over te leggen of terwijl hij bij zulk een verkoop bijgestaan wordt door een bediende die verzuimd heeft om een certificaat dat op die bediende betrekking heeft, over te leggen, volgens voorschrift van sub-artikel (2), moet de bestuurder van de betrokken mijn de mijnkommissaris ervan in kennis stellen en daarop trekt de Minister de licentie in".

53. Artikel vyf van voormelde Wet No. 19 van 1917 word hiermee gewysig deur die volgende woorde te skrap: „of die niet door hemzelf of door een lid van de kombinasie waartoe hij behoort, of in het geval van een agent, door zijn lastgever verbouwd of voortgebracht zijn".

Wysiging van artikel 5 van Wet 19 van 1917.

54. Artikel ses van voormelde Wet No. 19 van 1917 word hiermee gewysig—

Wysiging van artikel 6 van Wet 19 van 1917.

(i) deur in paragraaf (a) die woorde „Ordonnantie No. 11 van 1914 (Transvaal)" te skrap en te vervang deur die woorde „de rechtsbepalingen op winkelluren"; en

(ii) deur paragraaf (b) te skrap en te vervang deur die volgende paragraaf:—

„(b) de wijze waarop een licentiehouders of zijn bedienden een mijn mogen betreden of verlaten en de

which the business of the licensee may be conducted".

Amendment of section 5 of Act 30 of 1918.

55. (1) Sub-section (3) of section five of the Transvaal Mining Leases and Mineral Law Amendment Act, 1918 (Act No. 30 of 1918) and the Second Schedule to that Act are hereby repealed and the following sub-section substituted for the said sub-section:—

"(3) The profits, a share of which is payable to the Government under paragraph (b) of sub-section (1) shall be determined by the Commissioner for Inland Revenue in like manner as the taxable income derived from mining operations is determined for the purposes of the law relating to income tax, subject to objection and appeal as provided in that law, and such share shall be recovered in like manner as the tax on income derived from mining operations is recovered under the said law, and all the provisions of that law relating to the determination and recovery of income tax and objections and appeals shall apply *mutatis mutandis* to the determination and recovery of the share of the profits payable to the State under any lease under this section and to the consideration of objections and the hearing of appeals".

(2) The provisions of the new sub-section (3) substituted by sub-section (1) of this section shall not apply to any profits payable to the State under any lease granted before the commencement of this Act or to any profits under a lease of an area which is worked in conjunction with an area leased before such commencement, and the profits payable to the State under both such leases shall be determined and recovered in terms of the sub-section and Schedule repealed by sub-section (1).

Repeal of sections 2, 20 and 24 of Act 30 of 1918.

56. Sections two, twenty and twenty-four of the said Act No. 30 of 1918, and the First Schedule to that Act are hereby repealed: Provided that the said Schedule shall, notwithstanding its repeal, remain in force for the purpose of calculating payments to holders of mining title out of the profits of a State mine under section one hundred and twenty-seven of the principal Act.

Repeal of section 3 of Act No. 55 of 1926.

57. Section three of the Reserved Minerals Development Act, 1926 (Act No. 55 of 1926) is hereby repealed.

Amendment of section 7 of Act No. 55 of 1926.

58. Section seven of the said Act No. 55 of 1926 is hereby amended by the deletion of the words "in addition to the discoverers' rights conferred by section three of this Act".

Amendment of section 8 of Act 55 of 1926.

59. Section eight of the said Act No. 55 of 1926 is hereby amended—

(a) by the deletion in sub-section (1) of the words "on the scale specified in the First Schedule to the Transvaal Mining Leases and Mineral Law Amendment Act, 1918 (Act No. 30 of 1918), and if such area is contiguous to the discoverer's area and worked in conjunction therewith, the said share of the profits shall be paid in such proportion as the leased area bears to the joint area", and the substitution therefor of the words "on a scale fixed in each case by the Minister on the recommendation of the Mining Leases Board established by section one of the said Act and subject also *mutatis mutandis* to the provisions of section nineteen of the Precious and Base Metals Act, 1908, of the Transvaal (Act No. 35 of 1908): Provided that the rent payable in respect of any such lease shall be six shillings per morgen per month, one-half of which shall be paid over to the owner of the holding";

(b) by the deletion of the second paragraph of sub-section (1) and the substitution therefor of the following paragraph:—

"The profits, a share of which is payable to the Government under this section, shall be determined by the Commissioner for Inland Revenue in like manner as the taxable income derived from mining operations is determined for the purposes of the law relating to income tax subject to objection and appeal as provided in that law and such share shall be recovered in like manner as the tax upon income derived from mining operations is recovered under that law, and all the provisions of that law relating



wijze waarop de handel van de licentiehouders gedreven mag worden".

55. (1) Sub-artikel (3) van artikel *vyf* van die „Transvaal Mynverhuring en Minerale Wet Wijzigingswet, 1918" (Wet No. 30 van 1918) en die Tweede Bylae tot daardie Wet word hiermee herroep en bedoelde sub-artikel word deur die volgende sub-artikel vervang:—

Wysiging van artikel 5 van Wet 30 van 1918.

„(3) De winst, een aandeel waarvan aan de Regering ingevolge paragraaf (b) van sub-artikel (1) betaald moet worden, wordt door de Kommissaris voor Binnenlandse Inkomsten bepaald op dezelfde wijze waarop de belastbare inkomsten uit het mijnbedrijf bepaald worden voor de toepassing van de wet op inkomstebelasting, onderhevig aan de rechtsbepalingen van die wet met betrekking tot bezwaren en appels, en dat aandeel wordt ingevorderd op dezelfde wijze waarop de belasting op inkomsten uit het mijnbedrijf ingevolge bedoelde wet ingevorderd wordt, en alle bepalingen van die wet aangaande de vaststelling en invordering van inkomstebelasting en aangaande bezwaren en appels zijn *mutatis mutandis* van toepassing op de vaststelling en invordering van het aan de Staat verschuldigde aandeel in de winst krachtens een huurkontraat ingevolge dit artikel en op de overweging van bezwaren en het verhoor van appels".

(2) Die bepaling van die nuwe sub-artikel (3) vervat in sub-artikel (1) van hierdie artikel, is nie van toepassing op winste wat aan die Staat verskuldig is kragtens 'n voor die inwerkingtreding van hierdie Wet aangegane huurkontraat of op die winste kragtens die huur van 'n terrein wat bewerk word tesame met 'n voor daardie inwerkingtreding verhuurde terrein en die winste wat kragtens albei daardie huurkontraate aan die Staat verskuldig is, word bepaal en ingevorder volgens bedoelde sub-artikel en die Bylae wat deur sub-artikel (1) herroep word.

56. Artikels twee, twintig en vier-en-twintig van voormelde Wet No. 30 van 1918 en die Eerste Bylae tot daardie Wet word hiermee herroep: Met die verstande dat bedoelde Bylae, nieteenstaande sy herroeping, van krag bly tot berekening van betalings aan besitters van myntitels uit die wins uit 'n Staatsmyn kragtens artikel honderd-sewen-en-twintig van die Hoofwet.

Herroeping van artikels 2, 20 en 24 van Wet 30 van 1918.

57. Artikel drie van die „Wet op Ontginning van Voorbehouden Mineralen, 1926" (Wet No. 55 van 1926), word hiermee herroep.

Herroeping van artikel 3 van Wet 55 van 1926.

58. Artikel sewe van voormelde Wet No. 55 van 1926 word hiermee gewysig deur die woorde „boven en behalve de ontdekkersrechten, verleend bij artikel drie van deze Wet" te skrap.

Wysiging van artikel 7 van Wet 55 van 1926.

59. Artikel agt van voormelde Wet No. 55 van 1926 word hiermee gewysig—

Wysiging van artikel 8 van Wet 55 van 1926.

(a) deur die woorde „volgens de schaal opgenomen in de Eerste Bijlage van de Transvaal Mynverhuring en Minerale Wet Wijzigingswet, 1918 (Wet No. 30 van 1918) en indien zulk terrein grenst aan het ontdekkers terrein en tezamen daarmee geëxploiteerd wordt, wordt het te betalen aandeel in de winsten berekend naar verhouding van het gehuurde terrein tot het gezamenlike terrein" te skrap en te vervang deur die woorde „volgens een schaal voor ieder geval vastgesteld door de Minister, op aanbeveling van de door artikel een van bedoelde Wet ingestelde Mynverhuringraad en ook onderhevig *mutatis mutandis* aan de bepalingen van artikel negentien van de „Precious and Base Metals Act, 1908", van de Transvaal (Wet No. 35 van 1908): Met dien verstande dat de huur betaalbaar ten opzichte van enig zodanig huurkontraat zes shillings per morgen per maand is, de helft waarvan aan de eigenaar van de hoeve overbetaald wordt";

(b) deur die tweede sinsnede van sub-artikel (1) te skrap en te vervang deur die volgende sinsnede:—

„De winst, een aandeel waarvan aan de Regering ingevolge dit artikel betaald moet worden, wordt door de Kommissaris voor Binnenlandse Inkomsten bepaald op dezelfde wijze waarop de belastbare inkomsten uit het mijnbedrijf bepaald worden voor de toepassing van de wet op inkomstebelasting onderhevig aan de rechtsbepalingen van die Wet met betrekking tot bezwaren en appels en dat aandeel wordt ingevorderd op dezelfde wijze waarop de belasting op inkomsten uit het mijnbedrijf ingevolge die wet ingevorderd wordt, en alle bepalingen

to the determination and recovery of income tax and objections and appeals shall apply *mutatis mutandis* to the determination and recovery of the share of the profits payable to the State under any lease under this section and to the consideration of objections and the hearing of appeals”;

(c) by the addition of the following new sub-section at the end of the section:—

“(11) No transfer duty and no stamp duty shall be payable in respect of any lease under section seven or in respect of any cession of any such lease: Provided that the lessee shall pay to the Government in addition to the Government's share of the profits aforesaid, a sum equal to one and one quarter per cent. of such share, and if transfer duty would, but for this sub-section, be payable into the revenue fund of the province wherein the land subject to the lease is situate under any law in force in that province, the said additional sum shall be paid over to the revenue fund of that province”.

Manner of payment of certain licence moneys or rent on mining title in townships.

60. (1) If a mining title embraces two or more pieces of land in a township registered in the names of persons other than the township owner, any share of licence moneys or rent payable in respect of such mining title which would, but for the provisions of this section, have accrued to such persons under the principal Act or the Transvaal Mining Leases and Mineral Law Amendment Act, 1918 (Act No. 30 of 1918) shall, unless the township owner has reserved to himself or to his successors in title the right to receive such share, be paid over to the local authority within whose area of jurisdiction such township is situate, or in the absence of any such local authority, to the provincial revenue fund.

(2) The provisions of this section shall be deemed to have come into operation on the first day of January, 1909: Provided that any share of such licence moneys or rent as aforesaid paid to any person before the commencement of this Act, shall be deemed to have been lawfully paid and no other person shall have any claim against the Government in respect of any part of such share.

Short title.

61. This Act shall be known as the Mineral Law Amendment Act, 1934, and shall come into operation on the first day of July, 1934.

### Schedule.

(Embodied in Act No. 35 of 1908 (Transvaal) as the Fourth Schedule thereof.)

#### FOURTH SCHEDULE.

An illustration of the calculation of the capital allowance referred to in section nineteen of this Act and its application in determining the division of profits.

It is assumed that the lessee commenced mining operations on 1st January, 1933, milling on 1st January, 1938, and incurred £1,740,000 in capital expenditure as provided for in the lease.

#### FIRST YEAR—1933.

Month.	Capital Expenditure.	Capital Allowance.
January .. ..	£10,000	£458
February .. ..	10,000	417
March .. ..	10,000	375
April .. ..	10,000	333
May .. ..	10,000	292
June .. ..	10,000	250
July .. ..	10,000	208
August .. ..	10,000	167
September .. ..	10,000	125
October .. ..	10,000	83
November .. ..	10,000	42
December .. ..	10,000	—
Totals to carry forward ..	£120,000	£2,750

van die wet aangaande de vaststelling en invordering van inkomstebelasting en bezwaren en appèls zijn *mutatis mutandis* van toepassing op de vaststelling en invordering van het aan de Staat verschuldigde aandeel in de winst krachtens een huurkontrakt ingevolge dit artikel en op de overweging van bezwaren en het verhoor van appèls';

(c) deur die volgende nuwe sub-artikel aan die end van die artikel by te voeg:—

„(11) Geen hererechten en geen zegelrechten zijn verschuldigd in verband met een huur ingevolge artikel zeven of in verband met een overdracht van zulk een huur: Met dien verstande dat de huurder, benevens voormeld aandeel van de Regering in die winst, aan de Regering moet uitbetalen een som gelijk aan een en een kwart per cent van dat aandeel en indien, afgezien van dit sub-artikel, hererechten zouden moeten betaald worden in het inkomstefonds van de provincie waarin de grond, waarop de huur betrekking heeft, gelegen is, krachtens een in die provincie geldende wet, moet bedoelde bijkomende som overbetaald worden aan het inkomstefonds van die provincie”.

60. (1) Wanneer 'n myntitel twee of meer stukke grond in 'n dorp omvat, wat geregistreer is in die name van ander persone as die dorpseienaar, dan word enige aandeel in lisensiegelde of huur, verskuldig in verband met daardie myntitel, wat afgesien van die bepalinge van hierdie artikel, kragtens die Hoofwet of kragtens die „Transvaal Mijnverhuur en Minerale Wet Wijzigings-Wet, 1918” (Wet No. 30 van 1918), aan bedoelde persone sou toekom, uitbetaal aan die plaaslike bestuur binne wie se gebied die dorp geleë is of by ontbreke van so 'n plaaslike bestuur, aan die provinsiale inkomstefonds, tensy die dorpseienaar die reg om so 'n aandeel te ontvang aan homself of aan sy titelopvolgers voorbehou het.

(2) Die bepalinge van hierdie artikel word geag op die eerste dag van Januarie 1909 in werking te getree het: Met die verstande dat 'n aandeel in voormelde lisensiegelde of huur wat voor die inwerkingtreding van hierdie Wet aan een of ander persoon uitbetaal is, geag word wettig uitbetaal te wees en dat niemand anders 'n aanspraak het teen die Regering vir enige deel van daardie aandeel.

61. Hierdie Wet heet die Minerale Wysigingswet, 1934, en Kort titel. tree op die eerste dag van Julie 1934 in werking.

## Bylae.

(In Wet No. 35 van 1908 (Transvaal) opgeneem as Vierde Bylae.)

### FOURTH SCHEDULE.

An illustration of the calculation of the capital allowance referred to in section nineteen of this Act and its application in determining the division of profits.

It is assumed that the lessee commenced mining operations on 1st January, 1933, milling on 1st January, 1938, and incurred £1,740,000 in capital expenditure as provided for in the lease.

#### FIRST YEAR—1933.

Month.	Capital Expenditure.	Capital Allowance.
January .. ..	£10,000	£458
February .. ..	10,000	417
March .. ..	10,000	375
April .. ..	10,000	333
May .. ..	10,000	292
June .. ..	10,000	250
July .. ..	10,000	208
August .. ..	10,000	167
September .. ..	10,000	125
October .. ..	10,000	83
November .. ..	10,000	42
December .. ..	10,000	—
Totals to carry forward ..	£120,000.	£2,750

## SECOND YEAR—1934.

		Capital Expenditure.	Capital Allowance.
Capital expenditure and capital allowance brought forward .. .. .		£120,000	£2,750
5% p.a. on capital expenditure incurred in the previous year .. .. .			6,000
Further capital expenditure and capital allowance :—			
Month.	Capital Expen- diture.	Capital Allow- ance.	
January .. .. .	£20,000	£917	
February .. .. .	20,000	833	
March .. .. .	20,000	750	
April .. .. .	20,000	667	
May .. .. .	20,000	583	
June .. .. .	20,000	500	
July .. .. .	20,000	417	
August .. .. .	20,000	333	
September .. .. .	20,000	250	
October .. .. .	20,000	167	
November .. .. .	20,000	83	
December .. .. .	20,000	—	
Totals for the year .. .. .	£240,000	£5,500	
		240,000	5,50
Totals to carry forward .. .. .		£360,000	£14,250

## THIRD YEAR—1935.

Brought forward from previous year .. .. .		£360,000	£14,250
5% capital allowance on the total capital expenditure to the end of previous year .. .. .			18,000
Further capital expenditure and capital allowance :—			
Month.	Capital Expen- diture.	Capital Allow- ance.	
January .. .. .	£30,000	£1,375	
February .. .. .	30,000	1,250	
March .. .. .	30,000	1,125	
April .. .. .	30,000	1,000	
May .. .. .	30,000	875	
June .. .. .	30,000	750	
July .. .. .	30,000	625	
August .. .. .	30,000	500	
September .. .. .	30,000	375	
October .. .. .	30,000	250	
November .. .. .	30,000	125	
December .. .. .	30,000	—	
Totals for the year .. .. .	£360,000	£8,250	
		360,000	8,250
Totals to carry forward .. .. .		£720,000	£40,500

## FOURTH YEAR—1936.

Brought forward from previous year .. .. .		£720,000	£40,500
5% capital allowance on the total capital expenditure to the end of previous year .. .. .			36,000
Further capital expenditure and capital allowance :—			
Month.	Capital Expen- diture.	Capital Allow- ance.	
January .. .. .	£35,000	£1,604	
February .. .. .	35,000	1,455	
March .. .. .	35,000	1,313	
April .. .. .	35,000	1,167	
May .. .. .	35,000	1,021	
June .. .. .	35,000	875	
July .. .. .	35,000	728	
August .. .. .	35,000	583	
September .. .. .	35,000	438	
October .. .. .	35,000	292	
November .. .. .	35,000	146	
December .. .. .	35,000	—	
Totals for the year .. .. .	£420,000	9,622	
		420,000	9,622
Totals to carry forward .. .. .		£1,140,000	£86,122



## SECOND YEAR—1934.

	Capital Expenditure.	Capita Allowance.
Capital expenditure and capital allowance brought forward .. .. .	£120,000	£2,750
5% p.a. on capital expenditure incurred in the previous year .. .. .		6,000
Further capital expenditure and capital allowance :—		
Month.	Capital Expen- diture.	Capital Allow- ance.
January .. .. .	£20,000	£917
February .. .. .	20,000	833
March .. .. .	20,000	750
April .. .. .	20,000	667
May .. .. .	20,000	583
June .. .. .	20,000	500
July .. .. .	20,000	417
August .. .. .	20,000	333
September .. .. .	20,000	250
October .. .. .	20,000	167
November .. .. .	20,000	83
December .. .. .	20,000	—
Totals for the year ..	£240,000	£5,500
	240,000	5,500
Totals to carry forward .. ..	£360,000	£14,250

## THIRD YEAR—1935.

Brought forward from previous year ..	£360,000	£14,250
5% capital allowance on the total capital expenditure to the end of previous year ..		18,000
Further capital expenditure and capital allowance :—		
Month.	Capital Expen- diture.	Capital Allow- ance.
January .. .. .	£30,000	£1,375
February .. .. .	30,000	1,250
March .. .. .	30,000	1,125
April .. .. .	30,000	1,000
May .. .. .	30,000	875
June .. .. .	30,000	750
July .. .. .	30,000	625
August .. .. .	30,000	500
September .. .. .	30,000	375
October .. .. .	30,000	250
November .. .. .	30,000	125
December .. .. .	30,000	—
Totals for the year ..	£360,000	£8,250
	360,000	8,250
Totals to carry forward .. ..	£720,000	£40,500

## FOURTH YEAR—1936.

Brought forward from previous year ..	£720,000	£40,500
5% capital allowance on the total capital expenditure to the end of previous year ..		36,000
Further capital expenditure and capital allowance :—		
Month.	Capital Expen- diture.	Capital Allow- ance.
January .. .. .	£35,000	£1,604
February .. .. .	35,000	1,455
March .. .. .	35,000	1,313
April .. .. .	35,000	1,167
May .. .. .	35,000	1,021
June .. .. .	35,000	875
July .. .. .	35,000	728
August .. .. .	35,000	583
September .. .. .	35,000	438
October .. .. .	35,000	292
November .. .. .	35,000	146
December .. .. .	35,000	—
Totals for the year ..	£420,000	9,622
	420,000	9,622
Totals to carry forward .. ..	£1,140,000	£86,122

## FIFTH YEAR—1937.

	Capital Expenditure.	Capital Allowance.
Brought forward from previous year .. ..	£1,140,000	£86,122
5% capital allowance on the total capital expenditure to the end of previous year ..		57,000
Further capital expenditure and capital allowance :—		
Month.	Capital Expen- diture.	Allow- ance.
January .. ..	£40,000	£1,833
February .. ..	40,000	1,667
March .. ..	40,000	1,500
April .. ..	40,000	1,333
May .. ..	40,000	1,167
June .. ..	40,000	1,000
July .. ..	40,000	833
August .. ..	40,000	667
September .. ..	40,000	500
October .. ..	40,000	333
November .. ..	40,000	167
December .. ..	40,000	—
Totals for the year .. ..	£480,000	£11,000
Totals at the date of commencement of Milling .. ..	£1,620,000	£154,122

## FIRST YEAR OF PRODUCTION.

Lease consideration payable.	
Formula in terms of Lease being	
1200	
$y = 50 - \frac{x}{\text{minimum payment of } 10\%}$	
Revenue for the year .. ..	£350,000
Expenditure .. ..	400,000
Working Loss .. ..	£50,000
Capital expenditure to date of milling .. ..	£1,620,000
„ „ during year 1938 .. ..	120,000
*Total capital expenditure to date .. ..	£1,740,000
Redemption Allowance (life of mine being 20 years from 1,740,000)	
$1.1.38) = \frac{1,740,000}{20}$ .. ..	87,000
Loss to be carried forward .. ..	£137,000

Capital expenditure and capital allowance to be carried  
forward :—

	Capital Expenditure.	Capital Allowance.
As at date of milling .. ..	£1,620,000	£154,122
Capital allowance for 1938 .. ..		81,000
Further capital expenditure and capital allowance :		
Month.		
January .. ..	10,000	458
February .. ..	10,000	417
March .. ..	10,000	375
April .. ..	10,000	333
May .. ..	10,000	292
June .. ..	10,000	250
July .. ..	10,000	208
August .. ..	10,000	167
September .. ..	10,000	125
October .. ..	10,000	83
November .. ..	10,000	42
December .. ..	10,000	—
Redemption allowance .. ..	£1,740,000	87,000
Unredeemed capital expendi- ture and capital allowance to be carried forward .. ..	£1,653,000	£237,872

\*NOTE.—The Capital expenditure of £1,740,000 completes the  
capital expenditure as provided for in the lease ranking for capital  
allowance.

## SECOND YEAR OF PRODUCTION.

Revenue for the year .. ..	£1,000,000
Expenditure .. ..	£700,000
Loss brought forward .. ..	137,000
Redemption allowance (life of mine being 1,653,000)	
19 years from 1.1.39) = $\frac{1,653,000}{19}$ .. ..	87,000
Profit .. ..	£924,000
	£76,000

## FIFTH YEAR—1937.

	Capital Expenditure.	Capital Allowance.
Brought forward from previous year ..	£1,140,000	£86,122
5% capital allowance on the total capital expenditure to the end of previous year..		57,000
Further capital expenditure and capital allowance :—		
Month.	Capital Expen- diture.	Capital Allow- ance.
January .. ..	£40,000	£1,833
February .. ..	40,000	1,667
March .. ..	40,000	1,500
April .. ..	40,000	1,333
May .. ..	40,000	1,167
June .. ..	40,000	1,000
July .. ..	40,000	833
August .. ..	40,000	667
September .. ..	40,000	500
October .. ..	40,000	333
November .. ..	40,000	167
December .. ..	40,000	—
Totals for the year ..	£480,000	£11,000
Totals at the date of commencement of Milling .. ..	£1,620,000	£154,122

## FIRST YEAR OF PRODUCTION.

Lease consideration payable.	
Formula in terms of Lease being	
$y = 50 - \frac{1200}{x}$ minimum payment of 10%.	
Revenue for the year .. ..	£350,000
Expenditure .. ..	400,000
Working Loss .. ..	£50,000
Capital expenditure to date of milling ..	£1,620,000
„ „ during year 1938 ..	120,000
*Total capital expenditure to date ..	£1,740,000
Redemption Allowance (life of mine being 20 years from 1,740,000	
$1.1.38) = \frac{1,740,000}{20}$ .. ..	87,000
Loss to be carried forward .. ..	£137,000

Capital expenditure and capital allowance to be carried forward :—

	Capital Expenditure.	Capital Allowance.
As at date of milling .. ..	£1,620,000	£154,122
Capital allowance for 1938 ..		81,000
Further capital expenditure and capital allowance :		
Month.		
January .. ..	10,000	458
February .. ..	10,000	417
March .. ..	10,000	375
April .. ..	10,000	333
May .. ..	10,000	292
June .. ..	10,000	250
July .. ..	10,000	208
August .. ..	10,000	167
September .. ..	10,000	125
October .. ..	10,000	83
November .. ..	10,000	42
December .. ..	10,000	—
Redemption allowance ..	£1,740,000	87,000
Unredeemed capital expendi- ture and capital allowance to be carried forward ..	£1,653,000	£237,872

\*NOTE.—The Capital expenditure of £1,740,000 completes the capital expenditure as provided for in the lease ranking for capital allowance.

## SECOND YEAR OF PRODUCTION.

Revenue for the year.. ..	£1,000,000
Expenditure .. ..	£700,000
Loss brought forward.. ..	137,000
Redemption allowance (life of mine being 1,653,000	
19 years from 1.1.39) = $\frac{1,653,000}{19}$ ..	87,000
Profit .. ..	£94,000
	£76,000

SECOND YEAR OF PRODUCTION.—Continued.

	Capital Expenditure.	Capital Allowance.
Unredeemed capital expenditure and capital allowance brought forward .. ..	£1,653,000	£237,872
Further capital allowance 5% on £1,653,000 .. ..		82,650
Capital expenditure redeemed .. ..	87,000	
Unredeemed capital expenditure to carry forward .. ..	£1,566,000	£320,522
Less profit as above .. ..		76,000
Balance of capital allowance to carry forward .. ..		£244,522

THIRD YEAR OF PRODUCTION.

Revenue for year .. ..		£2,000,000
Working expenditure .. ..	£1,000,000	
Redemption allowance:		
(1) In respect of capital expenditure ranking for capital allowance .. ..	£87,000	
(2) In respect of capital expenditure not ranking for capital allowance .. ..	1,000	
	88,000	1,088,000
		£912,000
Deduct capital allowance—		
Brought forward .. ..	£244,522	
Further allowance on £1,566,000 at 5% .. ..	78,300	
		322,822
Profit in which State participates .. ..		£589,178
Application of formula:		
Gross revenue .. ..	£2,000,000	
Profit less redemption allowance .. ..	912,000	
$x = 45.6$		
$y = 50 - \frac{1200}{45.6} = 23.68421\% = ..$		139,542
Balance to Lessee .. ..		£449,636

CALCULATION OF REDEMPTION ALLOWANCE.

	In respect of capital expenditure ranking for capital allowance.	In respect of capital expenditure not ranking for capital allowance.
	£	£
Unredeemed capital expenditure brought forward .. ..	1,566,000	Nil
Capital expenditure during year .. ..		18,000
Redemption allowance (life of mine being 18 years from 1.1.40) .. ..	87,000	1,000
Unredeemed balances of capital expenditure to be carried forward .. ..	£1,479,000	£17,000



## SECOND YEAR OF PRODUCTION.—Continued.

	Capital Expenditure.	Capital Allowance.
Unredeemed capital expenditure and capital allowance brought forward .. ..	£1,653,000	£237,872
Further capital allowance 5% on £1,653,000 .. ..		82,650
Capital expenditure redeemed .. ..	87,000	
Unredeemed capital expenditure to carry forward .. ..	£1,566,000	£320,522
Less profit as above .. ..		76,000
Balance of capital allowance to carry forward .. ..		£244,522

## THIRD YEAR OF PRODUCTION.

Revenue for year .. ..		£2,000,000
Working expenditure .. ..	£1,000,000	
Redemption allowance:		
(1) In respect of capital expenditure ranking for capital allowance .. ..	£87,000	
(2) In respect of capital expenditure not ranking for capital allowance .. ..	1,000	
	88,000	1,088,000
		£912,000
Deduct capital allowance—		
Brought forward .. ..	£244,522	
Further allowance on £1,566,000 at 5% .. ..	78,300	
		322,822
Profit in which State participates .. ..		£589,178
Application of formula:		
Gross revenue .. ..	£2,000,000	
Profit less redemption allowance .. ..	912,000	
$x = 45 \cdot 6$		
1,200		
$y = 50 - \frac{1,200}{45 \cdot 6} = 23 \cdot 68421\% =$ .. ..		139,542
Balance to Lessee .. ..		£449,636

## CALCULATION OF REDEMPTION ALLOWANCE.

	In respect of capital expenditure ranking for capital allowance.	In respect of capital expenditure not ranking for capital allowance.
	£	£
Unredeemed capital expenditure brought forward .. ..	1,566,000	Nil
Capital expenditure during year .. ..		18,000
Redemption allowance (life of mine being 18 years from 1.1.40) .. ..	87,000	1,000
Unredeemed balances of capital expenditure to be carried forward .. ..	£1,479,000	£17,000

No. 37, 1934.]

# ACT

To provide for the construction of a dam in the Buffelspoort Irrigation District across the Sterkstroom River and of irrigation works in connection therewith; to confer powers upon the Buffelspoort Irrigation Board in relation to the control of the channel of the Sterkstroom River and of certain irrigation works and the distribution of water in its district; to restrict the enlargement or material alteration of existing, and the construction of new, irrigation works in that district; to restrict the application of a certain order made by a water court and to alter in certain respects the effect of that order; and to provide for the making of certain payments to the Government by the board and for the levying by the board of charges for surplus water delivered by it.

## Preamble.

WHEREAS the existing supply of water derived from the normal flow of the Sterkstroom River is insufficient to meet the present and future irrigation requirements of the inhabitants of the Buffelspoort Irrigation District, and it is expedient that provision be made for an increase in the supply:

AND WHEREAS there is at present in force an order made by the water court for the Water Court District No. 21 on the twenty-fourth day of March, 1925, in the matter of the application of South African Townships, Mining and Finance Corporation, Limited, by which permission and protection were granted in respect of certain irrigation works for the storage of surplus water in the Sterkstroom River for the irrigation of land situate within the said irrigation district, and which imposed limits upon the capacity of such works, the area that might be irrigated therefrom and the depth of irrigation that might be applied to the area irrigated:

AND WHEREAS it is expedient to restrict the application in certain respects of the said order of the said water court:

AND WHEREAS the Government of the Union has prepared a certain scheme for the construction of a dam across the Sterkstroom River on the farm Buffelspoort, No. 668, situate in the district of Rustenburg and in the said irrigation district, for the purpose of impounding and conserving therein waters flowing in the said river:

AND WHEREAS it is expedient that the Minister administering the Irrigation and Conservation of Waters Act, 1912, be empowered to construct such a dam and other irrigation works connected therewith:

AND WHEREAS it is expedient that the control of the channel of the Sterkstroom River within the said irrigation district, of such dam and other works, and of all irrigation works situate within the said irrigation district and existing at present, be vested in the Buffelspoort Irrigation Board:

AND WHEREAS it is expedient that the board be empowered to distribute the conserved and all other water available in the Sterkstroom River within the said irrigation district, and to enact provisions governing such distribution:

AND WHEREAS it is expedient to restrict the enlargement or material alteration of existing irrigation works and the construction of new irrigation works in the said irrigation district:

AND WHEREAS it is expedient to require the board to make certain payments to the Government, and to empower the board to levy charges for surplus water delivered by it:

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

1. In this Act, unless the context indicates otherwise—  
“acre foot” means the volume of water (43,560 cubic feet) which would cover a superficial area of one acre to a depth of one foot;

Interpretation  
of terms.

No. 37, 1934.]

## WET

**Om voorsiening te maak vir die bou van 'n dam in die Besproeiingsdistrik Buffelspoort oor die Sterkstroomrivier en van besproeiingswerke in verband daarmee; om aan die Besproeiingsraad Buffelspoort magte te verleen in verband met die beheer van die bedding van die Sterkstroomrivier en van sekere besproeiingswerke en die verdeling van water in sy distrik; tot beperking van die vergroting of aanmerklike verandering van bestaande besproeiingswerke en van die aanlê van nuwe besproeiingswerke in daardie distrik; tot beperking van die toepassing van 'n sekere bevel uitgevaardig deur 'n waterhof en tot wysiging in sekere opsigte van die uitwerking van daardie bevel; en om voorsiening te maak vir betaling van sekere bedrae deur die raad aan die Regering en vir die heffing deur die raad van vorderings vir surpluswater deur hom gelewer.**

**N**ADEMAAL die bestaande watervoorraad wat verkry word Aanhef.  
van die normale stroming van die Sterkstroomrivier onvoldoende is om aan die huidige en toekomstige besproeiingsbehoefte van die inwoners van die Besproeiingsdistrik Buffelspoort te voldoen, en dit wenslik is om voorsiening te maak vir vermeerdering van die watervoorraad:

EN NADEMAAL 'n bevel wat deur die waterhof vir Waterhofdistrik No. 21 op die vier-en-twintigste dag van Maart 1925, uitgevaardig is insake die applikasie van die South African Townships, Mining and Finance Corporation, Limited, tans van krag is, waardeur vergunning en beskerming verleen is ten opsigte van sekere besproeiingswerke vir die bewaring van surpluswater in die Sterkstroomrivier tot besproeiing van grond geleë binne genoemde Besproeiingsdistrik, en wat die inhoudsvermoë van daardie besproeiingswerke, die oppervlakte grond wat daaruit besproei kon word en die hoeveelheid water wat gebruik kon word op die besproeide grond, beperk het:

EN NADEMAAL dit wenslik is om in sekere opsigte die toepassing van bedoelde bevel van genoemde waterhof te beperk:

EN NADEMAAL die Unie-Regering 'n sekere skema opgetrek het vir die bou van 'n dam oor die Sterkstroomrivier op die plaas Buffelspoort, No. 668, geleë in die distrik Rustenburg en in genoemde besproeiingsdistrik, met die doel om waters lopende in voormelde rivier op te vang en te bewaar:

EN NADEMAAL dit wenslik is om die Minister wat belas is met die uitvoering van die „Besproeiings- en Waterbewarings-Wet, 1912” te magtig om so 'n dam en ander besproeiingswerke in verband daarmee te bou:

EN NADEMAAL dit wenslik is om die beheer van die bedding van die Sterkstroomrivier binne genoemde besproeiingsdistrik en van daardie dam en ander besproeiingswerke, en van alle tans bestaande besproeiingswerke binne genoemde besproeiingsdistrik, in die Besproeiingsraad Buffelspoort te vestig:

EN NADEMAAL dit wenslik is dat die raad gemagtig word om die bewaarde en alle ander water beskikbaar in die Sterkstroomrivier binne genoemde besproeiingsdistrik te verdeel, en om bepaling vas te stel tot reëling van sodanige verdeling:

EN NADEMAAL dit wenslik is om die vergroting of aanmerklike verandering van bestaande besproeiingswerke en die aanlê van nuwe besproeiingswerke in genoemde besproeiingsdistrik te beperk:

EN NADEMAAL dit wenslik is om die raad te verplig om sekere bedrae aan die Regering te betaal, en om die raad te magtig om vorderings vir surpluswater deur hom gelewer te hef:

**W**ORD DIT DERHALWE BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika as volg:—

1. Tensy uit die samehang anders blyk, beteken in hierdie Woordoms krywing.

Wet—

„akkervoet”, die volume water (43,560 kubieke voet) wat 'n oppervlakte van een akker tot 'n diepte van een voet sou dek;

"Buffelspoort Irrigation Board" or "the board" means the irrigation board constituted by Proclamation of the Governor-General No. 309 dated the ninth day of November, 1927;

"Buffelspoort Irrigation District" or "the irrigation district" means the irrigation district constituted by the said Proclamation; and

"Irrigation Act" means the Irrigation and Conservation of Waters Act, 1912 (Act No. 8 of 1912), as amended from time to time;

and any expression to which a meaning has been assigned in the Irrigation Act bears the same meaning.

Authority to construct a dam across the Sterkstroom River and also other irrigation works.

2. Notwithstanding anything to the contrary contained in the order made by the water court for the Water Court District No. 21 on the twenty-fourth day of March, 1925, in the matter of the application of South African Townships, Mining and Finance Corporation, Limited, the Minister may construct on the farm Buffelspoort, No. 668, situate in the district of Rustenburg and in the Buffelspoort Irrigation District, across the Sterkstroom River a dam of approximately 175,000,000 cubic feet capacity for the purpose of impounding and conserving any or all of the waters flowing in the said river, and may construct within the said irrigation district such other irrigation works as in his opinion may be necessary for measuring and controlling such water and distributing them for use within the said irrigation district.

Limitation of the application of certain order made by water court.

3. The order of the water court referred to in section two shall not be of force in relation to the dam and other irrigation works referred to in that section, and such order shall from the commencement of this Act cease to be of force in relation to land situate within the Buffelspoort Irrigation District: Provided that the determination by the said water court in paragraph 8 (a) of the said order of the normal flow of the Sterkstroom River shall remain in force, subject to the conditions set forth in paragraphs 6 and 7 as applied by paragraph 8 (a) of that order.

Buffelspoort Irrigation Board to have control of channel of Sterkstroom River and irrigation works in irrigation district.

4. (1) The control of the channel of the Sterkstroom River within the Buffelspoort Irrigation District, of the dam and other irrigation works referred to in section two and of all irrigation works situate within that irrigation district and existing at the commencement of this Act which irrigate land within that irrigation district shall from such commencement be vested in the Buffelspoort Irrigation Board.

(2) Except with the previous written consent of the Minister—

(a) such irrigation works shall not be enlarged or materially altered; and

(b) no irrigation works for irrigating land situate within that irrigation district shall be constructed within that irrigation district by the board or any other person.

Power of board to distribute water.

5. (1) The board may allocate and distribute the conserved and all other water available in the Sterkstroom River within the Buffelspoort Irrigation District for the benefit of the owners of land situate therein, in accordance with the provisions of this Act and of the by-laws made under this Act and any by-laws made under the Irrigation Act, provided such lastmentioned by-laws are not inconsistent with this Act or any by-laws made under this Act.

(2) For the purposes of this section it shall not be necessary for the board to draw any distinction between the normal flow of the Sterkstroom River and all other waters which may reach that river by reason of the existence of the irrigation works referred to in section four.

(3) In exercising the powers conferred upon it by this section, the board shall adopt reasonably adequate measures for ensuring that there is delivered to every owner of land situate within the irrigation district, and included in the schedule of irrigable areas thereof, a quantity of water equivalent, as near as may be, to the share of the normal flow to which he would have been entitled and which he would have used if the dam and other irrigation works referred to in section two had not been constructed.

(4) The board may deliver to any such owner of land the quantity of water referred to in sub-section (3) at such times or during such periods as the board may determine, having in mind the interests of all the owners of land situate within the said irrigation district.



„Besproeiingsraad Buffelspoort” of „die raad”, die besproeiingsraad ingestel by Proklamasie van die Goewerneur-generaal No. 309 gedagteken die negende dag van November 1927;

„Besproeiingsdistrik Buffelspoort”, of „die besproeiingsdistrik” die besproeiingsdistrik ingestel by voormelde Proklamasie; en

„Besproeiingswet”, die „Besproeiings- en Waterbewaringswet, 1912” (Wet No. 8 van 1912), soos van tyd tot tyd gewysig;

en het ’n uitdrukking waaraan in die Besproeiingswet ’n betekenis toegeskryf is, in hierdie Wet dieselfde betekenis.

2. Ondanks andersluidende bepalings in die bevel wat deur die waterhof vir Waterhofdistrik No. 21 op die vier-entwintigste dag van Maart 1925, uitgevaardig is insake die applikasie van die South African Townships, Mining and Finance Corporation, Limited, kan die Minister op die plaas Buffelspoort, No. 668, geleë in die distrik Rustenburg en in die Besproeiingsdistrik Buffelspoort, oor die Sterkstroomrivier ’n dam met ’n inhoudsvermoë van naasteby 175,000,000 kubieke voet bou met die doel om enige of al die water lopende in voormelde rivier op te vang en te bewaar, en kan hy binne genoemde besproeiingsdistrik sodanige ander besproeiingswerke bou as na sy mening nodig mag wees om sodanige water te meet en te kontroleer en om dit te verdeel vir gebruik binne genoemde besproeiingsdistrik.

Magtiging tot die bou van ’n dam in die Sterkstroomrivier en ook van ander besproeiingswerke.

3. Die in artikel twee bedoelde bevel van die waterhof is nie van krag met betrekking tot die in daardie artikel bedoelde dam en ander besproeiingswerke nie, en vanaf die inwerking-treding van hierdie Wet hou daardie bevel op om van krag te wees met betrekking tot grond geleë binne die Besproeiingsdistrik Buffelspoort: Met die verstande dat die vasstelling deur voormelde waterhof in paragraaf 8 (a) van voormelde bevel van die normale stroming van die Sterkstroomrivier van krag bly, onderhewig aan die voorwaardes uiteengesit in paragrawe 6 en 7 soas deur paragraaf 8 (a) van daardie bevel toegepas.

Beperking van toepassing van ’n sekere bevel uitgevaardig deur ’n waterhof.

4. (1) Die beheer van die bedding van die Sterkstroomrivier binne die Besproeiingsdistrik Buffelspoort, en van die in artikel twee bedoelde dam en ander besproeiingswerke, en van alle besproeiingswerke wat geleë is binne daardie besproeiingsdistrik, wat tydens die inwerkingtreding van hierdie Wet bestaan en wat grond binne daardie besproeiingsdistrik besproei, word vanaf bedoelde inwerkingtreding in die Besproeiingsraad Buffelspoort gevestig.

Besproeiingsraad Buffelspoort het beheer van bedding van Sterkstroomrivier en van besproeiingswerke in besproeiingsdistrik.

(2) Behalwe met die voorafgaande skriftelike toestemming van die Minister—

- (a) word geen sodanige besproeiingswerke vergroot of aanmerklik verander nie, en
- (b) word geen besproeiingswerke, bedoeld vir die besproeiing van grond geleë binne daardie besproeiingsdistrik, deur die raad of enige ander persoon binne daardie besproeiingsdistrik aangelê nie.

5. (1) Die raad kan die bewaarde en alle ander water beskikbaar in die Sterkstroomrivier binne die Besproeiingsdistrik Buffelspoort ten gunste van die eienare van grond daarin geleë, toebedeel en verdeel ooreenkomstig die bepalings van hierdie Wet en van die verordenings uitgevaardig kragtens hierdie Wet en enige verordenings uitgevaardig kragtens die Besproeiingswet, mits laasgenoemde verordenings nie teenstrydig met hierdie Wet of enige kragtens hierdie Wet uitgevaardigde verordenings is nie.

Bevoegdheid van raad om water te verdeel.

(2) By toepassing van hierdie artikel sal dit onnodig wees vir die raad om te onderskei tussen die normale stroming van die Sterkstroomrivier en alle andere waters wat daardie rivier bereik as gevolg van die bestaan van die in artikel vier bedoelde besproeiingswerke.

(3) By uitvoering van die magte aan hom by hierdie artikel verleen, moet die raad redelik doeltreffende maatreëls aanwend om aan elke eienaar van grond geleë binne die besproeiingsdistrik, en opgeneem in die lys van besproeibare grond daarvan, die lewering te verseker van ’n hoeveelheid water so na moontlik gelyk aan die aandeel van die normale stroming waarop hy geregtig sou gewees het en wat hy sou gebruik het, as die in artikel twee bedoelde dam en ander besproeiingswerke nie gebou was nie.

(4) Die raad kan aan enige sodanige eienaar van grond die in sub-artikel (3) bedoelde hoeveelheid water lower op sulke tye en gedurende sulke periodes as wat die raad, met inagneming van die belange van al die eienare van grond geleë binne genoemde besproeiingsdistrik, mag bepaal.

Board to frame new schedule of irrigable areas.

6. (1) The board shall, as soon as possible after the commencement of this Act, frame in manner prescribed by by-laws made under this Act a schedule of irrigable areas of land situate within the irrigation district.

(2) The board may in such schedule classify the irrigable areas included therein in two categories, viz.:

(a) a single block of land not exceeding four hundred morgen, which at the commencement of this Act was not irrigated with water derived from the Sterkstroom River, comprising such soils as are suitable for the cultivation of citrus or other like crops; and

(b) other irrigable land not exceeding two thousand morgen.

(3) If the board fail to frame a schedule of irrigable areas of land approved by the Minister within a period of four months from the commencement of this Act, the Minister shall cause the schedule to be framed.

(4) The schedule of irrigable areas framed under the provisions of this section shall be deemed to be a schedule of irrigable areas framed under the Irrigation Act, and upon the completion of the framing of such schedule the existing schedule of irrigable areas of the Buffelspoort Irrigation District shall be deemed to be cancelled.

Expenditure on construction of dam and irrigation works.

7. The dam and irrigation works referred to in section two shall be constructed under the control of the Director of Irrigation, and all expenditure connected therewith up to the date of completion as fixed by the Minister (the Minister being hereby authorized to fix such date by notice in the *Government Gazette*) shall be met out of moneys to be appropriated by Parliament for the purpose.

Payments by board to Minister:

8. (1) The board shall make the following annual payments to the Minister:

(a) thirty-eight annual payments, each payment consisting of an amount equal to five shillings for every morgen of land included in the whole of the schedule of irrigable areas of the irrigation district, the first payment to be made not later than two years after the date of completion of the dam and irrigation works as fixed by the Minister in terms of section seven;

(b) thirty-six annual payments, each payment consisting of an amount equal to ten shillings for every morgen of the block of land referred to in paragraph (a) of sub-section (2) of section six, the first payment to be made not later than four years after the said date of completion;

(c) annual payments in perpetuity, each payment consisting of an amount equal to seven shillings for every acre foot of surplus water released from storage as measured at the dam, the first payment to be made not later than one year after the said date of completion.

(2) The indebtedness of the board under this section shall for the purposes of the Irrigation Act be deemed to be an irrigation loan made under Chapter VIII thereof.

Board's power to charge for surplus water delivered.

9. (1) The board may levy, in addition to the irrigation rates which it is empowered to levy by section ninety-one of the Irrigation Act, charges for all surplus water delivered by it at any land included in the schedule of irrigable areas of the irrigation district.

(2) Such charges shall be at a uniform rate per unit of surplus water so delivered, and shall be payable by the owner of the land at which the surplus water was delivered.

(3) At the end of every period running from the first day of January to the thirtieth day of June and every period running from the first day of July to the thirty-first day of December in any calendar year, the board shall fix the rate of the charge for surplus water so delivered by it during such period at such a figure that the total amount recovered for charges so levied for surplus water delivered during that year shall equal, as near as may be, the amount which the board is bound to pay to the Minister for that year under paragraph (c) of sub-section (1) of section eight.

(4) The amount owing by every owner of land in respect of surplus water so delivered during any such period of six months shall be assessed by the board at the expiration of such period.

(5) The provisions of section ninety-three of the Irrigation Act shall apply *mutatis mutandis* in respect of charges levied under this section.

6. (1) Die raad moet, so gou doenlik na die inwerkingtreding van hierdie Wet, op wyse voorgeskrywe deur verordenings uitgevaardig kragtens hierdie Wet, 'n lys opstel van besproei-bare gronde geleë binne die besproeiingsdistrik. Raad moet nuwe lys van besproei-bare gronde opstel.

(2) In daardie lys kan die raad die daarin opgenóme besproei-bare gronde in twee kategorieë indeel, nl.:

(a) 'n enkel stuk grond nie te bowegaande vierhonderd morg nie, wat by die inwerkingtreding van hierdie Wet nie onder besproeiing was nie met water wat verkry was uit die Sterkstroomrivier, bevattende grondsoorte wat geskik is vir die verbouing van sitrus of ander soortgelyke gewasse; en

(b) ander besproei-bare grond nie te bowegaande twee-duisend morg nie.

(3) As die raad versuim om binne 'n tydperk van vier maande vanaf die inwerkingtreding van hierdie Wet 'n lys van besproei-bare gronde op te stel wat die Minister goedkeur, laat die Minister die lys opstel.

(4) Die lys van besproei-bare gronde opgestel kragtens die bepalings van hierdie artikel word geag te wees 'n lys van besproei-bare gronde opgestel kragtens die Besproeiingswet, en by voltooiing van die opstel van die lys word die bestaande lys van besproei-bare gronde van die Besproeiingsdistrik Buffelspoort geag gekanselleer te wees.

7. Die in artikel twee bedoelde dam en besproeiingswerke word onder toesig van die Direkteur van Besproeiing gebou, en alle uitgawes in verband daarmee tot op die datum van voltooiing soos deur die Minister vasgestel (die Minister hierby gemagtig te wees om sodanige datum deur kennisgewing in die *Staatskoerant* vas te stel) word uit deur die Parlement daartoe beskikbaar te stelle gelde vereëfen. Uitgawes in verband met bou van dam en besproeiingswerke.

8. (1) Die raad maak die volgende jaarlikse betalings aan die Minister: Betalings deur raad aan Minister.

(a) ag-en-dertig jaarlikse betalings, elke betaling te bestaan uit 'n bedrag gelyk aan vyf sjielings vir elke morg grond opgeneem in die hele lys van besproei-bare gronde van die besproeiingsdistrik, waarvan die eerste betaling gemaak moet word nie later dan twee jaar na die datum van voltooiing van die dam en besproeiingswerke soos deur die Minister ingevolge artikel sewe vasgestel;

(b) ses-en-dertig jaarlikse betalings, elke betaling te bestaan uit 'n bedrag gelyk aan tien sjielings vir elke morg van die stuk grond bedoel in paragraaf (a) van sub-artikel (2) van artikel ses, waarvan die eerste betaling gemaak moet word nie later dan vier jaar na die voormelde datum van voltooiing;

(c) ewigdurende jaarlikse betalings, elke betaling te bestaan uit 'n bedrag gelyk aan sewe sjielings vir elke akkervoet surpluswater uitgelaat na opbewing soos gemeet by die dam, waarvan die eerste betaling gemaak moet word nie later dan een jaar na die voormelde datum van voltooiing.

(2) Die skuld van die raad ingevolge hierdie artikel word by toepassing van die Besproeiingswet geag 'n besproeiingslening toegestaan kragtens Hoofstuk VIII daarvan te wees.

9. (1) Behalwe die besproeiingsbelastings wat die raad deur artikel een-en-negentig van die Besproeiingswet gemagtig is te hef, kan die Raad vorderings hef vir alle surpluswater deur hom by enige grond gelewer wat in die lys van besproei-bare gronde van die besproeiingsdistrik opgeneem is. Raad bevoeg om vir gelewerde surpluswater betaling te eis.

(2) Bedoelde vorderings moet wees teen dieselfde prys per eenheid water aldus gelewer, en is betaalbaar deur die eienaar van die grond waar die surpluswater gelewer is.

(3) Aan die end van elke tydperk lopende vanaf die eerste dag van Januarie tot die dertigste dag van Junie en elke tydperk lopende vanaf die eerste dag van Julie tot die een-en-dertigste dag van Desember in enige kalenderjaar, moet die Raad die tarief van vorderings vir surpluswater aldus deur hom gedurende bedoelde tydperk gelewer teen so 'n syfer vasstel dat die totaalbedrag geën ten opsigte van vorderings aldus gehef vir surpluswater aldus gedurende daardie kalenderjaar gelewer so na moontlik gelyk is aan die bedrag wat die Raad kragtens paragraaf (c) van sub-artikel (1) van artikel ag verplig is om aan die Minister vir daardie jaar te betaal.

(4) Die bedrag verskuldig deur elke eienaar van grond ten opsigte van surpluswater aldus gedurende so 'n tydperk van ses maande gelewer word deur die raad by afloop van die tydperk bereken.

(5) Die bepalings van artikel drie-en-negentig van die Besproeiingswet is *mutatis mutandis* van toepassing in verband met vorderings gehef kragtens hierdie artikel.

## By-laws.

## 10. (1) The board may make by-laws—

- (a) prescribing the manner of assessing the quantity of surplus water released from storage from the dam and other irrigation works referred to in section *two* or from any other irrigation works under the control of the board;
- (b) prescribing the manner of regulating the flow of water into and the distribution of water from the channel of the Sterkstroom River;
- (c) prescribing the manner of exercising the powers conferred and fulfilling the duties imposed upon the board by section *five*;
- (d) relating to the preparation of a schedule of irrigable areas;
- (e) prescribing the manner of assessing the quantity of surplus water delivered by the board to land included in the schedule of irrigable areas of the irrigation district and the assessment of the amounts owing by owners of land in respect thereof; and
- (f) generally relating to all such matters as are necessary or useful for carrying out in all respects the purposes of this Act.

(2) The provisions of sub-sections (2) and (3) of section *seventy-six* of the Irrigation Act shall *mutatis mutandis* apply to by-laws made under sub-section (1) or (3) of this section.

(3) The board shall, if the Minister directs it to do so, make a by-law prescribing any of the matters mentioned in sub-section (1) of this section, or amend or revoke any by-law made under this section.

(4) If the board fails to make, amend or revoke any by-law in accordance with any such direction within the period of two months from the date of the issue of such direction, the Minister may himself make, amend or revoke any such by-law.

(5) The provisions of this section shall be construed as being additional to and not in substitution of the provisions of section *ninety-five* of the Irrigation Act.

(6) No by-law made under the provisions of paragraph (d) of sub-section (1) shall be declared to be invalid on the ground of its inconsistency with any provision of the Irrigation Act or any regulation made thereunder, provided such by-law is not inconsistent with this Act.

## Short title .

11. This Act shall be known as the Buffelspoort Irrigation District Adjustments Act, 1934.



10. (1) Die raad kan verordenings uitvaardig—

Verordenings.

- (a) om die wyse vas te stel waarop die hoeveelheid surpluswater bereken moet word wat uit die in artikel twee bedoelde dam en ander besproeiingswerke of uit enige andere besproeiingswerke onder die beheer van die raad na opbewaring uitgelaat word ;
- (b) om die wyse vas te stel waarop die vloeï van water in die loop van die Sterkstroomrivier in en die verdeling van water daaruit gereël moet word ;
- (c) om die wyse waarop die raad die bevoegdhede moet uitoefen en die pligte moet nakom wat aan hom deur artikel vyf verleen en opgelê is ;
- (d) met betrekking tot die opstelling van 'n lys van besproeiibare gronde ;
- (e) om die wyse vas te stel waarop die hoeveelheid surpluswater deur die raad by grond gelewer wat in die lys van besproeiibare gronde van die besproeiingsdistrik opgeneem is bereken moet word, en waarop die bedrae verskuldig deur grondeienare in verband daarmee bereken moet word ; en
- (f) oor die algemeen met betrekking tot alle sake wat nodig of nuttig is tot verwesenliking van die oogmerke van hierdie Wet.

(2) Die bepalinge van sub-artikels (2) en (3) van artikel ses-en-sewentig van die Besproeiingswet is *mutatis mutandis* van toepassing op verordenings uitgevaardig kragtens sub-artikel (1) of (3) van hierdie artikel.

(3) Die raad moet, as die Minister hom daartoe beveel, 'n verordening uitvaardig wat een of ander van die in sub-artikel (1) van hierdie artikel bedoelde sake vasstel, of enige uit kragte van hierdie artikel uitgevaardigde verordening wysig of herroep.

(4) As die raad versuim om binne 'n tydperk van twee maande vanaf die datum van uitvaardiging van so 'n bevel enige verordening ooreenkomstig die bevel uit te vaardig, te wysig of te herroep, kan die Minister self so 'n verordening uitvaardig, wysig of herroep.

(5) Die bepalinge van hierdie artikel word geag die bepalinge van artikel vyf-en-negentig van die Besproeiingswet aan te vul en nie te vervang nie.

(6) Geen verordening uitgevaardig kragtens die bepalinge van paragraaf (d) van sub-artikel (1) word, op grond dat dit teenstrydig is met enige bepaling van die Besproeiingswet of 'n kragtens daardie wet uitgevaardigde regulasie, ongeldig verklaar nie, mits die verordening nie met hierdie Wet teenstrydig is nie.

11. Hierdie Wet heet die Besproeiingsdistrik Buffelspoort Kort titel. Reëlingswet, 1934.

No. 41, 1934.]

# ACT

**To amend the law relating to intoxicating liquor and the Railways and Harbours Regulation, Control and Management Act, 1916.**

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

## Interpretation.

1. In this Act the expression "principal Act" means the Liquor Act, 1928 (Act No. 30 of 1928).

## Amendment of section 5 of Act 30 of 1928.

2. Sub-section (2) of section *five* of the principal Act is hereby amended—

- (a) by the deletion of the second sentence of the said sub-section;
- (b) by the deletion of the words "and every railway refreshment car";
- (c) by the deletion of the words "or car" in both places where they occur.

## Amendment of section 6 of Act 30 of 1928.

3. Sub-section (1) of section *six* of the principal Act is hereby amended—

- (a) by the deletion of paragraph (a) and the substitution therefor of the following paragraph:

"(a) any person selling under the authority of the Minister of Defence liquor in any canteen referred to in section *eleven* of the South Africa Defence Act Amendment Act, 1922 (Act No. 22 of 1922)."

- (b) by the addition of the following provision at the end of paragraph (h):—

"Provided that, such vessel ordinarily plies between places situate not less than one hundred miles apart."

## Amendment of section 12 of Act 30 of 1928.

4. Section *twelve* of the principal Act is hereby amended—

- (a) by the addition of the following proviso at the end of sub-section (1):

"Provided that a provincial council may in respect of any such fee payable within its province from time to time by ordinance increase, reduce or abolish any such fee or impose any other fee in lieu thereof and prescribe the method in which the amount of any such fee shall be determined";

- (b) by the deletion of sub-section (2) and the substitution therefor of the following new sub-sections:

"(2) Subject to the proviso to sub-section (1), the fees payable in terms of the Third Schedule to this Act on the issue, renewal, transfer or removal of an hotel liquor licence shall be reduced to—

- (a) one half of the sum set forth in the said Schedule if the hotel in question is situate in an urban area wherein there reside less than one thousand five hundred parliamentary voters; or

- (b) one fifth of the sum set forth in the said Schedule if the hotel in question is situate in a rural area.

(2)*bis*. Subject to the proviso to sub-section (1) the fee payable in terms of the Third Schedule to this Act on the issue of a temporary liquor licence shall be reduced to one pound per diem in respect of each bar kept under the licence, if it is issued to the secretary of an exhibition or agricultural show conducted by an association or institution whose members will not share in any profit derived from such exhibition or show."

## Amendment of section 21 of Act 30 of 1928.

5. Section *twenty-one* of the principal Act is hereby amended—

- (a) by the insertion of the following new paragraph to precede paragraph (a) of sub-section (1), the existing paragraphs (a), (b) and (c) becoming (b), (c) and (d) respectively:—

"(a) any application for a conditional authority for an hotel liquor licence in terms of section *thirty-two* or *fifty-four*";

No. 41, 1934.]

# WET

**Tot wysiging van die wet op sterke drank en van die „Spoorwegen en Havens Reglement, Bestuur en Beheer Wet, 1916”.**

**DIT WORD BEPAAL** deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika as volg:—

1. In hierdie Wet beteken die uitdrukking „Hoofwet” die Woordoms krywing. Drankwet, 1928 (Wet No. 30 van 1928).

2. Sub-artikel (2) van artikel vyf van die Hoofwet word hiermee gewysig— Wysiging van artikel 5 van Wet 30 van 1928.

(a) deur die tweede sinsnede van bedoelde sub-artikel te skrap;

(b) deur die woorde „en elke spoorweg verversingswagon” te skrap;

(c) deur die woorde „of wagon” op beide plekke waar hulle voorkom, te skrap.

3. Sub-artikel (1) van artikel ses van die Hoofwet word hiermee gewysig— Wysiging van artikel 6 van Wet 30 van 1928.

(a) deur paragraaf (a) te skrap en te vervang deur die volgende paragraaf:

„(a) iemand wat op gesag van die Minister van Verdediging drank verkoop in ’n winkel vermeld in artikel elf van die „Zuid-Afrika Verdedigings Wet Wijzigings Wet, 1922” (Wet No. 22 van 1922).”

(b) deur die volgende bepaling aan die end van paragraaf (h) by te voeg:

„mits daardie vaartuig gewoonlik plekke aandoen wat nie minder as honderd myl van mekaar geleë is nie.”

4. Artikel twaalf van die Hoofwet word hiermee gewysig— Wysiging van artikel 12 van Wet 30 van 1928.

(a) deur die volgende voorbehoudsbepaling aan sub-artikel (1) toe te voeg:

„Met die verstande dat ’n provinsiale raad met betrekking tot so ’n fooi wat binne sy provinsie verskuldig is, van tyd tot tyd deur ’n ordonnansie so ’n fooi kan verhoog, verlaag of afskaf of ’n ander fooi in plaas daarvan kan opleë en kan voorskryf op welke wyse die bedrag van so ’n fooi bepaal moet word”;

(b) deur sub-artikel (2) te skrap en te vervang deur die volgende nuwe sub-artikels:

„(2) Behoudens die voorbehoudsbepaling tot sub-artikel (1) word die fooie wat volgens die Derde Bylae tot hierdie Wet verskuldig is by nitreiking, vernuwing, oordrag of verplasing van ’n hotel-dranklisensie, verminder tot—

(a) die helfte van die som in bedoelde Bylae vermeld, as die betrokke hotel geleë is in ’n stadsgebied, waarin minder as eenduisend-vyfhonderd parlementêre kiesers woon; of

(b) een-vyfde van die som in bedoelde Bylae vermeld, as die betrokke hotel op die platteland geleë is.

(2)bis. Behoudens die voorbehoudsbepaling tot sub-artikel (1) word die fooi wat volgens die Derde Bylae tot hierdie Wet verskuldig is by uitreiking van ’n tydelike dranklisensie verlaag tot een pond per dag vir elke kantien wat kragtens die lisensie gehou word, as dit uitgereik word aan die sekretaris van ’n landbou- of ander tentoonstelling wat gedryf word deur ’n vereniging of inrigting wie se lede nie sal deel in enige wins wat sodanige tentoonstelling mog oplewer nie”.

5. Artikel een-en-twintig van die Hoofwet word hiermee gewysig— Wysiging van artikel 21 van Wet 30 van 1928.

(a) deur die volgende nuwe paragraaf voor paragraaf (a) van sub-artikel (1) in te voeg, waardeur die bestaande paragrawe (a), (b) en (c) respektieflik (b), (c) en (d) word:—

„(a) ’n aanvraag om ’n voorwaardelike magtiging vir ’n hotel-dranklisensie ingevolge artikel twee-en-dertig of vier-en-vyftig”;

(b) by the addition at the end of paragraph (b) of sub-section (1), as relettered under paragraph (i) of this section, of the words "or an application for the authority referred to in paragraph (b) of section *one hundred and sixteen* or";

(c) by the insertion in sub-section (2) after "(a)" of the words "or (b)";

(d) by the substitution, in sub-section (2) of the letters (c) and (d) for the letters (b) and (c) respectively;

(e) by the insertion after the word "addition" in sub-section (3) of the words "save where a notice of such meeting has been given under section *forty-six*"; and

(f) by the addition of the following proviso at the end of sub-section (3):—

"Provided that in respect of any application for an authority under paragraph (a) of sub-section (1) such notice shall be given in accordance with the provisions of this Act relating to an annual meeting".

Amendment of  
section 31 of Act  
30 of 1928.

6. Paragraph (d) of sub-section (2) of section *thirty-one* of the principal Act is hereby amended by the deletion of the words "save in the case of a renewal or a transfer where the premises have since the last application for a licence in respect thereof undergone no change of structural arrangement," and by the insertion of the following proviso after the word "lead" at the end thereof—

"Provided that no such plan shall be necessary in the case of an application for the renewal of a licence if the applicant with his application submits an affidavit that since the last application for a licence the premises have undergone no change, or have undergone only a minor change of structural arrangement, of which full particulars shall be submitted to the licensing board and to the police at the time of filing the application for renewal."

Amendment of  
section 32 of Act  
30 of 1928.

7. Sub-section (1) of section *thirty-two* of the principal Act is hereby amended—

(a) by the deletion of the words "but not later than the fifteenth day of October";

(b) by the deletion of the word "meeting" and the substitution therefor of the words—

"or interim meeting: Provided that if such application is to be considered by the board at an annual meeting, it shall be made not later than the preceding fifteenth day of October; or if it is to be considered by the board at an interim meeting, a period of not less than six weeks shall intervene between the application and the date of the meeting of the board at which it is to be considered".

Amendment of  
section 33 of Act  
30 of 1928.

8. Section *thirty-three* of the principal Act is hereby amended—

(a) by the deletion, in sub-section (1), of the words "have affixed to it" and the substitution therefor of the words "be impressed with";

(b) by the deletion of sub-section (2); and

(c) by the deletion, in sub-section (3), of the words "attached to," in both places where they occur, and the substitution therefor of the words "impressed upon".

Amendment of  
section 42 of Act  
30 of 1928.

9. Section *forty-two* of the principal Act is hereby amended—

(a) by the insertion after the word "section" in sub-section (2) of the words "upon or after the date of the annual meetings of licensing boards in any year and before the fifteenth day of October of the next following year";

(b) by the insertion of the following new sub-section to follow sub-section (2):

"(2)*bis*. If there are reasonable grounds for believing that an application for a temporary transfer under this section of a licence under this Act will, if granted, be granted after the fifteenth day of October in any year and before the date of the annual meetings of licensing boards to be held in that year,



- (b) deur aan die end van paragraaf (b) van sub-artikel (1) soas in paragraaf (i) van hierdie artikel herletter, die volgende woorde by te voeg: „of 'n aanvraag om die magtiging bedoel in paragraaf (b) van artikel honderd-en-sestien of”;
- (c) deur in sub-artikel (2) na „(a)” die woorde „of (b)” in te voeg;
- (d) deur in sub-artikel (2) die letters (b) en (c) respektieflik deur die letters (c) en (d) te vervang;
- (e) deur na die woorde „buitendien moet” in sub-artikel (3) die woorde „(behalwe wanneer ingevolge artikel ses-en-veertig van so 'n vergadering kennis gegee is)” in te voeg; en
- (f) deur die volgende voorbehoudsbepaling by sub-artikel (3) te voeg:  
„Met die verstande dat ten opsigte van 'n aanvraag om 'n magtiging ingevolge paragraaf (a) van sub-artikel (1) so 'n kennisgewing moet geskied ooreenkomstig die bepaling van hierdie Wet met betrekking tot 'n jaarlikse vergadering”.

6. Paragraaf (d) van sub-artikel (2) van artikel een-en-dertig van die Hoofwet word hiermee gewysig deur die woorde „(behalwe wanneer in die geval van 'n vernuwing of oordrag, die gebou sedert die laaste aanvraag om 'n lisensie ten opsigte daarvan nie deur ombou verander is nie)” te skrap en deur die volgende voorbehoudsbepaling na die woord „voer” in te voeg—

Wysiging van artikel 31 van Wet 30 van 1928.

„Met die verstande dat so 'n plan by 'n aanvraag om die vernuwing van 'n lisensie nie nodig is nie as die aanvraer met sy aanvraag 'n beëdigde verklaring voorlê dat sedert die laaste aanvraag om 'n lisensie die gebou nie verander is nie, of slegs deur 'n geringe verbouing verander is, waarvan volle besonderhede aan die lisensieraad en aan die polisie ten tyde van die indiening van die aanvraag om vernuwing voorgelê moet word.”

7. Sub-artikel (1) van artikel twee-en-dertig van die Hoofwet word hiermee gewysig—

Wysiging van artikel 32 van Wet 30 van 1928.

- (a) deur die woorde „maar nie later dan die vyftiende dag van Oktober” te skrap; en
- (b) deur die woord „vergadering” te skrap en te vervang deur die volgende woorde: —  
„of tussentydse vergadering: Met die verstande dat as daardie aanvraag deur die raad op 'n jaarlikse vergadering in oorweging geneem sal word; dit nie later as die voorgaande vyftiende dag van Oktober gemaak moet word nie; of as dit deur die raad op 'n tussentydse vergadering in oorweging geneem sal word, 'n tydperk van nie minder as ses weke moet verstryk tussen die aanvraag en die dag van die vergadering van die raad waarop dit in oorweging geneem sal word.”

8. Artikel drie-en-dertig van die Hoofwet word hiermee gewysig—

Wysiging van artikel 33 van Wet 30 van 1928.

- (a) deur in sub-artikel (1) die woorde „Aan enige aanvraag ingevolge hierdie Wet ingedien, moet geheg” te skrap en te vervang deur die woorde „Op elke aanvraag wat ingevolge hierdie Wet ingedien word, moet ingestempel”;
- (b) deur sub-artikel (2) te skrap; en
- (c) deur in sub-artikel (3) die woorde „aan die aanvraag geheg” te vervang deur die woorde „op die aanvraag ingestempel” en die woorde „aan 'n aanvraag geheg” te vervang deur die woorde „op 'n aanvraag ingestempel”.

9. Artikel twee-en-veertig van die Hoofwet word hiermee gewysig—

Wysiging van artikel 42 van Wet 30 van 1928.

- (a) deur die volgende woorde na die woorde „oorgedra is” in sub-artikel (2) in te voeg: „op of na die dag van die jaarlikse vergaderings van lisensierade in een of ander jaar en voor die vyftiende dag van Oktober van die daarop volgende jaar”;
- (b) deur die volgende nuwe sub-artikel na sub-artikel (2) in te voeg:  
„(2)bis. As daar 'n gegronde vermoede bestaan dat 'n aanvraag om 'n tydelike oordrag kragtens hierdie artikel van 'n lisensie kragtens hierdie Wet, indien hy bewillig word, bewillig sal word op of na die vyftiende dag van Oktober in een of ander jaar en voor die dag waarop die jaarlikse vergaderings van lisensierade in daardie jaar gehou sal word, dan moet

the notice of such application referred to in paragraph (a) of the proviso to sub-section (1) shall state that the temporary transferee of the licence will, if the application for a temporary transfer be granted, at the next then ensuing annual meeting of the licensing board apply for the ratification of such transfer, and the licensing board may, at such meeting, notwithstanding anything contained in any other provision of this Act ratify such transfer, and upon such ratification shall substitute for the name of the transferor the name of the transferee wherever necessary in any application for a renewal made in due form by the transferor".

Amendment of  
section 43 of Act  
30 of 1928.

10. Section *forty-three* of the principal Act is hereby amended by the addition of the following new sub-section (2), the existing section becoming sub-section (1):

"(2) If there are reasonable grounds for believing that an application for a removal under sub-section (1) of a licence under this Act will, if granted, be granted upon or after the fifteenth day of October in any year and before the date of the annual meetings of licensing boards to be held in that year, the notice of such application referred to in sub-section (1) shall state that if the removal be authorized the licensee concerned will at the next then ensuing annual meeting of the licensing board apply for the ratification of such authority and the licensing board may at such meeting notwithstanding any other provision of this Act ratify such authority and shall substitute the new premises for the premises described in any application made by the licensee in due form for the renewal of his licence".

Amendment of  
section 45 of Act  
30 of 1928.

11. Section *forty-five* of the principal Act is hereby amended by the deletion of the words "by any person or by the police to the transfer or removal, as the case may be" and the substitution therefor of the words "by the police to the transfer, or by the police or any other person to the removal".

Amendment of  
section 47 of Act  
30 of 1928.

12. Section *forty-seven* of the principal Act is hereby amended by the insertion of the following new sub-section after sub-section (1):

"(1)*bis*. If the premises in connection wherewith a licence was granted have been attached in execution of a judgment or order of a court, the officer who effected the attachment may, with the approval of the magistrate, appoint any person to carry on the licensed business while the premises are under attachment."

Amendment of  
section 49 of Act  
30 of 1928.

13. Section *forty-nine* of the principal Act is hereby amended—

- (a) by the deletion of the word "vacating" and the substitution therefor of the words "ceasing to hold"; and
- (b) by the deletion of the word "on" and the substitution therefor of the word "without".

Amendment of  
section 54 of Act  
30 of 1928.

14. Section *fifty-four* of the principal Act is hereby amended—

- (a) by the insertion in sub-section (2) after the words "annual meeting" of the words "or at an interim meeting held in pursuance of paragraph (a) of sub-section (1) of section *twenty-one*";
- (b) by the insertion of the following new sub-section after sub-section (4):  

"(4)*bis*. A licensing board may, if it deem fit, grant a bottle liquor licence to any holder of an hotel liquor licence in a rural area and may renew the same from time to time together with any renewal of the said hotel liquor licence granted by it".

Amendment of  
section 62 of Act  
30 of 1928.

15. Section *sixty-two* of the principal Act is hereby amended by the addition of the following proviso at the end thereof:

"Provided that the signature of a voter appearing upon any such memorial shall be disregarded if he signed any petition or memorial relating to a licence to which the firstmentioned memorial relates, which is inconsistent with such firstmentioned memorial."

Amendment of  
section 63 of Act  
30 of 1928.

16. Section *sixty-three* of the principal Act is hereby amended—

- (a) by the insertion, after the words "local authority" where they occur for the third time in sub-section (1), of the words "in which there already exist two bottle

die kennisgewing van daardie aanvraag, bedoel in paragraaf (a) van die voorbehoudsbepaling tot sub-artikel (1) 'n verklaring bevat dat, indien die aanvraag om 'n tydelike oordrag bewillig word, die persoon aan wie die lisensie tydelik oorgedra word, op die eersvolgende jaarlikse vergadering van die lisensieraad die bekragtiging van die oordrag sal aanvra, en op daardie vergadering kan die lisensieraad, niesteenstaande enige ander bepaling van hierdie Wet, daardie oordrag bekragtig en by daardie bekragtiging moet hy in 'n aanvraag om 'n vernuwing van die lisensie, in 'n behoorlike vorm deur die oordraer gemaak, orals waar nodig die naam van die oordraer vervang deur die naam van die oordragontvanger."

10. Artikel *drie-en-veertig* van die Hoofwet word hiermee gewysig deur die volgende nuwe sub-artikel (2) daaraan toe te voeg, waardeur die bestaande artikel sub-artikel (1) word :

Wysiging van artikel 43 van Wet 30 van 1928.

„(2) As daar 'n gegronde vermoede bestaan dat 'n aanvraag om 'n verplasing kragtens sub-artikel (1) van 'n lisensie kragtens hierdie Wet, indien hy bewillig word, bewillig sal word op of na die vyftiende dag van Oktober in een of ander jaar en voor die dag waarop die jaarlikse vergaderings van lisensierade in daardie jaar gehou sal word, dan moet die in sub-artikel (1) bedoelde kennisgewing van daardie aanvraag 'n verklaring bevat dat, indien die verplasing bewillig word, die betrokke lisensiehouer op die eersvolgende vergadering van die lisensieraad, die bekragtiging van die verplasing sal aanvra en op daardie vergadering kan die lisensieraad, niesteenstaande enige ander bepaling van hierdie Wet daardie oordrag bekragtig en moet daarop die gebou, vermeld in 'n aanvraag om 'n vernuwing van die lisensie, in 'n behoorlike vorm deur die lisensiehouer gemaak, deur die nuwe gebou vervang."

11. Artikel *vyf-en-veertig* van die Hoofwet word hiermee gewysig deur die woorde „enigeneen of die polisie beswaar maak teen die oordrag of verplasing na die geval mog wees" te skrap en te vervang deur die woorde „die polisie beswaar maak teen die oordrag of as die polisie of iemand anders beswaar maak teen die verplasing."

Wysiging van artikel 45 van Wet 30 van 1928.

12. Artikel *seuen-en-veertig* van die Hoofwet word hiermee gewysig deur die volgende nuwe sub-artikel na sub-artikel (1) in te voeg :

Wysiging van artikel 47 van Wet 30 van 1928.

„(1) *bis*. As die gebou in verband waarmee 'n lisensie verleen is, tot voltrekking van 'n vonnis met beslag belê is, kan die beslagleggende amptenaar met goedkeuring van die magistraat iemand aanstel om die gelisensieerde besigheid voort te set terwyl die gebou onder beslag is."

13. Artikel *neuen-en-veertig* van die Hoofwet word hiermee gewysig—

Wysiging van artikel 49 van Wet 30 van 1928.

(a) deur die woorde „sy betrekking ontruim" te skrap en te vervang deur die woorde „ophou om sy betrekking te beklee"; en

(b) deur die woord „teen" te skrap en deur die woord „sonder" te vervang.

14. Artikel *vier-en-vyftig* van die Hoofwet word hiermee gewysig—

Wysiging van artikel 54 van Wet 30 van 1928.

(a) deur in sub-artikel (2) na die woorde „jaarlikse vergadering" die woorde „of op 'n tussentydse vergadering gehou ingevolge paragraaf (a) van sub-artikel (1) van artikel *een-en-twintig*" in te voeg ;

(b) deur die volgende nuwe sub-artikel na sub-artikel (4) in te voeg :

„(4) *bis*. 'n Lisensieraad kan, as hy dit voegsaam oordeel, 'n bottel-dranklisensie verleen aan die houer van 'n hotel-dranklisensie op die platteland en kan dit van tyd tot tyd vernuwe saam met 'n vernuwing van bedoelde hotel-dranklisensie deur hom verleen."

15. Artikel *twee-en-sestig* van die Hoofwet word hiermee gewysig deur die volgende voorbehoudsbepaling aan die end by te voeg :

Wysiging van artikel 62 van Wet 30 van 1928.

„Met die verstande dat die handtekening van 'n kieser wat op so 'n petisie voorkom, nie in aanmerking geneem word nie as hy 'n petisie of memorie geteken het wat betrekking het op 'n lisensie waarop eersbedoelde petisie betrekking het en wat met daardie eersbedoelde petisie onbestaanbaar is."

16. Artikel *drie-en-sestig* van die Hoofwet word hiermee gewysig—

Wysiging van artikel 63 van Wet 30 van 1928.

(a) deur na die woorde „plaaslike bestuur" waar hulle vir die derde maal voorkom in sub-artikel (1) die volgende woorde in te voeg „waarin reeds bestaan

liquor licences or two licences referred to in section *sixty-four* or one such licence and one bottle liquor licence”;

(b) by the deletion of sub-section (4) and the substitution of the following sub-section :

“(4) The provisions of sub-section (1) shall not apply to any application for, or grant of—

(a) a new hotel liquor licence, a new restaurant liquor licence, or a new club liquor licence for premises which, apart from the land on which they are built, are of a value of twenty thousand pounds or more ; or

(b) a new club liquor licence for a club which—

(i) consists of not less than one hundred male ordinary members paying an annual subscription of not less than two guineas ; and

(ii) is the sole occupier of premises which, apart from the land on which they are built, are of a value of one thousand pounds or more ; and

(iii) maintains in a proper state a golf course of a length of at least two thousand five hundred yards measured from tee to hole, for the use of its members and their guests ; or

(c) a new bottle liquor licence in an urban area wherein no such licence or no licence referred to in section *sixty-four* exists.”

Amendment of section 65 of Act 30 of 1928.

17. Sub-section (1) of section *sixty-five* of the principal Act is hereby amended by the insertion after the words “ or save in the case of a foreign liquor licence ” of the words “ or an hotel liquor licence ”.

Amendment of section 66 of Act 30 of 1928.

18. Sub-section (1) of section *sixty-six* of the principal Act is hereby amended by the insertion after the word “ shall ” of the words “ not authorize the sale of liquor which was manufactured in the Union and shall ”.

Amendment of section 67 of Act 30 of 1928.

19. Section *sixty-seven* of the principal Act is hereby amended by the deletion of the second proviso thereto and the substitution therefor of the following words :

“ and if any such employee to whom any such licence was issued, ceases to be employed in a position in which he is required to hold such licence, his employer may take such steps for the transfer of the licence to some other employee, as a licensee may take under sub-section (1) of section *forty-two* for the transfer of his licence to some other person, and thereupon the provisions of that section (other than the requirement of the payment of a transfer fee and other than paragraphs (b), (c) and (d) of the said sub-section (1) and of sections *forty-four*, *forty-five* and *forty-six* shall *mutatis mutandis* apply in connection with the transfer of the licence ”.

Amendment of section 72 of Act 30 of 1928.

20. Section *seventy-two* of the principal Act is hereby amended by the insertion after the words “ place of public ” of the word “ function ”.

Amendment of section 74 of Act 30 of 1928.

21. Sub-section (2) of section *seventy-four* of the principal Act is hereby amended—

(a) by the insertion in paragraph (f) after the word “ temporary ” of the words “ or reciprocity ” ; and

(b) by the insertion in sub-paragraph (i) of paragraph (f) after the word “ membership ”, of the words “ or having conferred some special benefit upon the club ”.

Amendment of section 75 of Act 30 of 1928.

22. Section *seventy-five* of the principal Act is hereby amended—

(a) by the insertion in paragraph (c) of sub-section (1) of the words “ days, any portion of a day or ” before the word “ hours ” wherever it occurs ;

(b) by the deletion of sub-section (2) and the substitution therefor of the following sub-section :

“(2) At a meeting to be held for the purpose of this sub-section on any day between the thirtieth day of June, 1934, and the fifteenth day of July, 1934, and thereafter at any annual meeting, a licensing board may, on application by the holder of an hotel liquor licence or a club liquor licence, by endorsement on the licence and subject to such restrictions as may be imposed by it, authorize such licence holder on any day and at any time to sell and deliver liquor to any lodger in the licensed premises in question for consumption on such premises elsewhere than in any



twee bottel-dranklisensies of twee lisensies vermeld in artikel vier-en-sestig of een sodanige lisensie en een bottel-dranklisensie”;

- (b) deur sub-artikel (4) te skrap en te vervang deur die volgende sub-artikel:

„(4) Die bepalings van sub-artikel (1) is nie van toepassing nie op 'n aanvraag om, of die verlening van—

- (a) 'n nuwe hotel-dranklisensie, 'n nuwe restaurant-dranklisensie, of 'n nuwe klub-dranklisensie vir 'n gebou wat, afgesien van die grond waarop hy staan, twintigduisend pond of meer werd is; of

- (b) 'n nuwe klub-dranklisensie vir 'n klub wat—

(i) bestaan uit nie minder as honderd gewone manslede wat 'n jaarlikse subskripsie van minstens twee ghienies betaal; en

(ii) in alleenbesit is van 'n gebou wat, afgesien van die grond waarop hy staan, duisend-pond of meer werd is; en

(iii) 'n gholfbaan van 'n lengte van minstens tweeduisend-vefhonderd yard, van 'tee' tot gat gemeet, in 'n behoorlike toestand onderhou vir die gebruik van sy lede en hulle gaste; of

- (c) 'n nuwe bottel-dranklisensie in 'n stadsgebied waarin geen sodanige lisensie of geen lisensie vermeld in artikel vier-en-sestig bestaan nie.”

17. Sub-artikel (1) van artikel vyf-en-sestig van die Hoofwet word hiermee gewysig deur die woorde „of 'n hotel-dranklisensie” na die woorde „of behalwe in die geval van 'n buitenlandse dranklisensie” in te voeg. Wysiging van artikel 65 van Wet 30 van 1928.

18. Sub-artikel (1) van artikel ses-en-sestig van die Hoofwet word hiermee gewysig deur die volgende woorde na die woord „dranklisensie” in te voeg: „veroorloof nie die verkoop van drank wat in die Unie vervaardig is nie en,”. Wysiging van artikel 66 van Wet 30 van 1928.

19. Artikel sewen-en-sestig van die Hoofwet word hiermee gewysig deur die tweede voorbehoudsbepaling te skrap en te vervang deur die volgende woorde: Wysiging van artikel 67 van Wet 30 van 1928.

„en as so 'n dienaar aan wie so 'n lisensie uitgereik is, nie meer in diens is in 'n betrekking waarin dit nodig is dat hy so 'n lisensie hou nie, dan kan sy baas die stappe doen om die lisensie aan 'n ander dienaar oor te dra, wat 'n lisensiehouer kragtens sub-artikel (1) van artikel twee-en-veertig kan doen om sy lisensie aan 'n ander oor te dra, en daarop is die bepalings van daardie artikel (buiten die vereiste tot betaling van 'n oordragfooi en buiten paragrawe (b), (c) en (d) van bedoelde sub-artikel (1)) en artikels vier-en-veertig, vyf-en-veertig en ses-en-veertig mutatis mutandis van toepassing in verband met die oordrag van die lisensie.”

20. Artikel twee-en-sewentig van die Hoofwet word hiermee gewysig deur na die woord „publieke” die woord „funksie” in te voeg. Wysiging van artikel 72 van Wet 30 van 1928.

21. Sub-artikel (2) van artikel vier-en-sewentig van die Hoofwet word hiermee gewysig— Wysiging van artikel 74 van Wet 30 van 1928.

- (a) deur in paragraaf (f) na die woorde „tydelike lid” die woorde „of wederkerigheidslid” in te voeg; en

- (b) deur in sub-paragraaf (i) van paragraaf (f) na die woorde „lidmaatskap is” die woorde „of 'n besondere voordeel aan die klub verleen het” in te voeg.

22. Artikel vyf-en-sewentig van die Hoofwet word hiermee gewysig— Wysiging van artikel 75 van Wet 30 van 1928.

- (a) deur in paragraaf (c) van sub-artikel (1) die woorde „dae, een of ander gedeelte van 'n dag of” in te voeg voor die woord „ure” orals waar dit voorkom;

- (b) deur sub-artikel (2) te skrap en te vervang deur die volgende nuwe sub-artikel:

„(2) Op 'n vergadering wat vir die toepassing van hierdie sub-artikel gehou moet word op 'n dag tussen die dertigste dag van Junie 1934 en die vyftiende dag van Julie 1934, en daarna op 'n jaarlikse vergadering, kan 'n lisensieraad, op aanvraag van die houer van 'n hotel-dranklisensie of van 'n klub-dranklisensie, deur aantekening op die lisensie en op die voorwaardes wat hy mag stel, bedoelde lisensiehouer magtig om op enige dag en te eniger tyd drank te verkoop en te lewer aan 'n loseerder in die betrokke gelisensieerde gebou, om in daardie gebou elders dan in 'n beperkte gedeelte daarvan gebruik te word

restricted portion thereof, by such lodger or his guest :  
Provided that—

- (a) notice of any application to be heard at the meeting to be held before the fifteenth day of July, 1934, shall be lodged with the magistrate concerned on or before the twentieth day of June, 1934 ;
- (b) no liquor shall be supplied under the provisions of this sub-section to a lodger for consumption by his guest, unless the name and address of such guest and the name of the lodger has been written clearly and legibly in ink by such guest in a special register to be kept by the licensee for the purpose."
- (c) by the deletion of sub-section (3) and the substitution therefor of the following sub-section :  

"(3) A wholesale liquor licence or a brewer's licence shall not authorize the sale or delivery of liquor earlier than eight o'clock in the morning or later than seven o'clock in the evening, but may, if the licensing board so determine, on any closed day other than Sunday, Christmas Day, Good Friday or Ascension Day, authorize the lawful conveyance of liquor for delivery to any licensee in any rural area, or for delivery at any place on the railway system controlled by the Railways and Harbours Administration for transport by railway to any licensee."
- (d) by the deletion of sub-section (4) ;
- (e) by the addition at the end of sub-section (5) of the words—  

"Provided that any such licence may, if the licensing board so determine, authorize the sale or delivery of liquor on the licensed premises up to eight o'clock in the evening, or the delivery of liquor off the licensed premises up to nine o'clock in the evening, upon the twenty-third, twenty-fourth, thirtieth and thirty-first days of December, or any one or more of those days, if they be not closed days";
- (f) by the insertion in sub-section (7) before the words "A bar licence" of the words "Subject to the provisions of sub-section (2)";
- (g) by the insertion in the first proviso in sub-section (7) after the words "or more" of the words "or in any other urban area which, in terms of a certificate of the Minister, is in his opinion a health or pleasure resort for the purpose of this sub-section"; by the insertion after the words "if satisfied" of the words "at any annual meeting or at any meeting held for the purpose of sub-section (2)";
- (h) by the deletion of the last proviso to sub-section (7) and the substitution therefor of the following proviso :  

"Provided further that in the case of a health or pleasure resort, certified as such by the Minister in terms of this sub-section, the extension of hours of sale shall be granted only to meet the seasonal requirements of such resort, and shall not in any case be granted for periods which in the aggregate exceed six months in any year.";
- (i) by the insertion in sub-section (8) before the words "A club liquor licence", of the words "Subject to the provisions of sub-section (2)";
- (j) by the deletion of the figure "10" where it occurs for the second time in sub-section (9) and the substitution therefore of the figure "11";
- (k) by the deletion of all the words after the words "later than" in sub-section (10) and the substitution therefor of the words "twelve o'clock midnight";
- (l) by the deletion of the figure "7" in sub-section (12) and the substitution therefor of the figure "6" and by the deletion of the figure "6" in the same sub-section and the substitution therefor of the figure "7".

Amendment of section 85 of Act 30 of 1928.

23. Section *eighty-five* of the principal Act is hereby amended by the deletion of the words "by the licensee".

Amendment of section 102 of Act 30 of 1928.

24. Section *one hundred and two* of the principal Act is hereby amended by the addition of the following proviso to paragraph (a) of sub-section (2) :

deur daardie loseerder of sy gas : Met die verstande dat—

- (a) 'n kennisgewing van 'n aanvraag wat behandel sal word op 'n vergadering wat voor die vyftiende dag van Julie 1934 gehou sal word, voor of op die twintigste dag van Junie 1934 by die betrokke magistraat ingedien moet word ;
- (b) geen drank kragtens die bepalinge van hierdie sub-artikel aan 'n loseerder vir gebruik van sy gas verstrek mag word nie, tensy die gas sy eie naam en adres en die naam van die loseerder duidelik en goed leesbaar met ink ingeskrywe het in 'n spesiale register wat die lisensiehouer vir daardie doel moet aanhou."
- (c) deur sub-artikel (3) te skrap en te vervang deur die volgende sub-artikel :  
„(3) 'n Groot-handelaarsdranklisensie of 'n bierbrouers-lisensie mag nie die verkoop of aflewering van drank veroorloof nie voor agtuur in die môre of na sewenuur in die aand, maar mag, as die lisensieraad sulks besluit, op enige geslote dag behalwe Sondag, Kersdag, Goeie Vrydag of Hemelvaartdag, die wettige vervoer van drank veroorloof vir aflewering aan 'n lisensiehouer op die platteland, of vir aflewering op enige plek, aan die spoorwegnet beheer deur die Administrasie van Spoorweë en Hawens, vir vervoer per spoor na 'n lisensiehouer";
- (d) deur sub-artikel (4) te skrap ;
- (e) deur die volgende woorde aan die end van sub-artikel (5) by te voeg :  
„Met die verstande dat as die lisensieraad aldus besluit, so 'n lisensie magtiging mag verleen tot verkoop of aflewering van drank in die gelisensieerde gebou tot agtuur saans of tot aflewering van drank buite die gelisensieerde gebou tot negenuur saans op die drie-en-twintigste, vier-en-twintigste, dertigste en een-en-dertigste Desember of op een of meer van daardie dae, as hulle nie geslote dae is nie";
- (f) deur in sub-artikel (7) die woorde „(behoudens die bepalinge van sub-artikel (2))” na die woorde „bier-lisensie mag” in te voeg ;
- (g) deur in die eerste voorbehoudsbepaling in sub-artikel (7) na die woord „bedra”, die volgende woorde in te voeg : „of in 'n ander stadsgebied wat, volgens 'n sertifikaat van die Minister, na sy mening 'n gesondheids- of ontspanningsoord is vir die toepassing van hierdie sub-artikel” deur na die woorde „indien oortuig” die woorde „op 'n jaarlikse vergadering of op 'n vergadering gehou vir die doel van sub-artikel (2)” in te voeg ;
- (h) deur die laaste voorbehoudsbepaling tot sub-artikel (7) te skrap ; en te vervang deur die volgende voorbehoudsbepaling : „Met die verstande, voorts, dat in die geval van 'n gesondheids- of ontspanningsoord wat deur die Minister ingevolge hierdie sub-artikel as sodanig gesertifiseer is, die verlenging van die verkoopsure alleen maar toegestaan mag word om aan die behoeftes van daardie oord na gelang van die seisoen te voldoen en in geen geval toegestaan mag word nie vir tydperke wat tesame meer as ses maande in een jaar bedra” ;
- (i) deur in sub-artikel (8) die woorde „Behoudens die bepalinge van sub-artikel (2) mag” voor die woorde „'n Klub-dranklisensie” in te voeg en deur die woord „mag” te skrap ;
- (j) deur die woord „half-elfuur” in sub-artikel (9) te skrap en te vervang deur die woord „half-twaalfuur” ;
- (k) deur al die woorde na die woorde „later as” in sub-artikel (10) te skrap en te vervang deur die woorde „twaalfuur middernag” ;
- (l) deur die woord „sewenuur” in sub-artikel (12) te skrap en te vervang deur die woord „sesuur” en deur die woord „sesuur” in dieselfde sub-artikel te skrap en te vervang deur die woord „sewenuur”.

23. Artikel *vyf-en-tagtig* van die Hoofwet word hiermee gewysig deur die woorde „deur die lisensiehouer” te skrap.

Wysiging van artikel 85 van Wet 30 van 1928.

24. Artikel *honderd-en-twee* van die Hoofwet word hiermee gewysig deur die volgende voorbehoudsbepaling by paragraaf (a) van sub-artikel (2) te voeg :

Wysiging van artikel 102 van Wet 30 van 1928.

"Provided that he may employ at any time any native, Asiatic or coloured male person of or over the age of eighteen years solely for the purpose of cleaning any part of the licensed premises or the utensils therein used, or for the purpose of conveying into any part of such premises any object or substance whatsoever, or for the purpose of conveying out of any part of such premises any object or substance other than liquor contained in open containers and intended for delivery to any person."

Amendment of section 111 of Act 30 of 1928.

25. Section *one hundred and eleven* of the principal Act is hereby amended by the insertion after the word "person" where it occurs for the first time of the words "other than a licensee".

Amendment of section 114 of Act 30 of 1928.

26. Sub-sections (1) and (2) of section *one hundred and fourteen* are hereby deleted and the following sub-sections substituted therefor:

"(1) Any licensee or his servant or agent may refuse to admit any person to the restricted portion of the licensed premises of such licensee, may refuse to supply liquor to any person and may request any person who is in the restricted portions of the said premises to depart therefrom.

(2) Any licensee or his servant or agent may eject from the licensed premises of such licensee any person who is drunk, violent or disorderly or whose presence on the licensed premises might subject the licensee to any penalty under this Act or any other law."

Amendment of section 116 of Act 30 of 1928.

27. Section *one hundred and sixteen* of the principal Act is hereby amended by the deletion in paragraph (b) of the words "in the case of a licence for which the authority of the board is not required without the written consent of the magistrate" and the substitution therefor of the words "of the magistrate and two members of the board".

Amendment of section 132 of Act 30 of 1928.

28. Section *one hundred and thirty-two* of the principal Act is hereby amended—

(a) by the insertion after the word "liquor" in sub-section (1) of the words "other than malt liquor";

(b) by the deletion of sub-section (5) and the substitution therefor of the following sub-section:

"(5) The provisions of this section shall not apply in connection with—

(a) any liquor in the course of conveyance from the licensed premises of a licensee to the licensed premises of another licensee; or

(b) any wine or brandy which has been sold or disposed of in terms of sub-section (2) of section *six* and which is in the course of conveyance for delivery to the person to whom it was so sold or disposed of; or

(c) any wine or brandy made by a person or association of persons *bona fide* engaged in viticulture, upon land owned or lawfully occupied by such person or association if in the course of conveyance, by such person or association, for delivery to any person to whom it was lawfully sold or disposed of, or if in the course of conveyance by the Railways and Harbours Administration on the direction of such person or association."

Amendment of section 138 of Act 30 of 1928.

29. Section *one hundred and thirty-eight* of the principal Act is hereby amended by the insertion of the following words at the end of sub-section (2)—"and at the same time send by registered post or personally deliver a copy of such report to the licensee, the lessor of the premises, and to every person described in sub-paragraph (ii) of paragraph (a) of sub-section (3) of section *thirty-one*".

Amendment of section 143 of Act 30 of 1928.

30. Section *one hundred and forty-three* of the principal Act is hereby amended by the insertion after the word "register" of the words "(which may consist of duplicates or copies of the permits or authorities issued, if kept in book form)".

Insertion of new section 156bis in Act 30 of 1928.

31. The following new section is hereby inserted in the principal Act after section *one hundred and fifty-six*:

"Presumption as to kaffir beer. 156bis. If in any charge under this Act it is alleged that any liquid was or is kaffir beer, evidence that such liquid had or has the appearance of kaffir beer shall be *prima facie* proof that it was or is kaffir beer."



„Met die verstande dat hy te eniger tyd 'n naturelle-, Asiatiese of kleurling-manspersoon wat agtien jaar oud of ouer is, te werk kan stel alleen om een of ander gedeelte van die gelisensieerde gebou of die daarin gebruikte gereedskap skoon te maak of om enige voorwerp of stof hoegenaamd in enige gedeelte van bedoelde gebou te bring of om uit enige gedeelte van bedoelde gebou enige voorwerp of stof te verwyder, behalwe drank in ope houters, bestem om aan iemand gelewer te word.”

25. Artikel *honderd-en-elf* van die Hoofwet word hiermee gewysig deur na die woord „iemand” waar dit vir die eerste maal voorkom, die woorde „anders as 'n lisensiehouer” in te voeg. Wysiging van artikel 111 van Wet 30 van 1928.

26. Sub-artikels (1) en (2) van artikel *honderd-en-veertien* van die Hoofwet word hiermee geskrap en deur die volgende sub-artikels vervang: Wysiging van artikel 114 van Wet 30 van 1928.

„(1) 'n Lisensiehouer of sy bediende of agent mag aan enigeen toegang weier tot die beperkte gedeelte van die gelisensieerde gebou van bedoelde lisensiehouer, mag weier om aan iemand drank te verstrek en mag iemand wat in die beperkte gedeelte van bedoelde gelisensieerde gebou is, versoek om daaruit te vertrek.

(2) 'n Lisensiehouer of sy bediende of agent mag iemand wat dronk of gewelddadig of wanordelik is, of wie se teenwoordigheid in die gelisensieerde gebou die lisensiehouer ingevolge hierdie of 'n ander wet aan 'n boete sou kan blootstel, uit die gelisensieerde gebou van bedoelde lisensiehouer sit”.

27. Artikel *honderd-en-sestien* van die Hoofwet word hiermee gewysig deur in paragraaf (b) die woorde „in die geval van 'n lisensie waarvoor die magtiging van die raad nie vereis is nie sonder skriftelike toestemming van die magistraat”, te skrap en te vervang deur die woorde „van die magistraat en twee lede van die raad”. Wysiging van artikel 116 van Wet 30 van 1928.

28. Artikel *honderd-twee-en-dertig* van die Hoofwet word hiermee gewysig— Wysiging van artikel 132 van Wet 30 van 1928.

(a) deur die woord „drank” in sub-artikel (1) te vervang deur die woorde „ander drank as bier”;

(b) deur sub-artikel (5) te skrap en te vervang deur die volgende sub-artikel:

„(5) Die bepalinge van hierdie artikel is nie van toepassing nie in verband met—

(a) enige drank wat vervoer word van die gelisensieerde gebou van 'n lisensiehouer na die gelisensieerde gebou van 'n ander lisensiehouer; of

(b) wyn of brandewyn wat volgens sub-artikel (2) van artikel ses verkoop of van die hand gesit is, en wat vervoer word om afgelewer te word aan die persoon aan wie dit aldus verkoop of van die hand gesit is; of

(c) wyn of brandewyn, vervaardig deur 'n persoon of 'n vereniging van persone wat te goeder trou die wynbou beoefen, op grond wat aan daardie persoon of vereniging behoort of in sy wettige besit is, as dit deur daardie persoon of vereniging vervoer word om aan iemand, aan wie dit wettig verkoop of van die hand gesit is, afgelewer te word, of as dit op las van daardie persoon of vereniging deur die Spoorweg- en Hawe-administrasie vervoer word.”

29. Artikel *honderd-agt-en-dertig* van die Hoofwet word hiermee gewysig deur aan die end van sub-artikel (2) die volgende woorde by te voeg: „en terselfdertyd aan die lisensiehouer, die verhuurder van die gebou en aan elkeen bedoel in sub-paragraaf (ii) van paragraaf (a) van sub-artikel (3) van artikel *een-en-dertig* 'n afskrif van bedoelde verslag per geregistreerde brief stuur of dit aan hom persoonlik besorg”. Wysiging van artikel 138 van Wet 30 van 1928.

30. Artikel *honderd-drie-en-veertig* van die Hoofwet word hiermee gewysig deur die woorde „(wat kan bestaan uit duplikate of kopieë van die uitgereikte permitte of magtigings, indien in die vorm van 'n boek gehou)” na die woord „aanhou” in te voeg. Wysiging van artikel 143 van Wet 30 van 1928.

31. Die volgende nuwe artikel word hiermee in die Hoofwet na artikel *honderd-ses-en-veertig* ingevoeg: Invoeging van nuwe artikel 156bis in Wet 30 van 1928.  
„Presumpsie 156bis. Wanneer in 'n beskuldiging kragtens omtrent hierdie Wet beweer word dat 'n vloeistof kafferbier was of is, dan lewer getuienis dat daardie vloeistof na kafferbier gelyk het of lyk, *prima facie* die bewys dat dit kafferbier was of is.”

Amendment of  
section 100 of Act  
30 of 1928.

32. Sub-section (2) of section *one hundred and sixty* of the principal Act is hereby deleted and the following sub-section substituted therefor:

"(2) Whenever a licensee is by virtue of the provisions of sub-section (1) liable for anything done or omitted by another person, the latter shall also be liable therefor as if he were the licensee: Provided that the provisions of this section shall not relieve such other person from any other liability which he may have incurred apart from the liability which he shares with the licensee".

Amendment of  
section 166 of Act  
30 of 1928.

33. Section *one hundred and sixty-six* of the principal Act is hereby amended—

(a) by the insertion in paragraph (h) after the word "licensee", of the words "or his servant or agent";

(b) by the addition of the following words at the end of paragraph (r):

"at any place or upon any land where, in terms of section *one hundred and twenty-five* or *one hundred and twenty-six*, no kaffir beer may be brewed except by consent or under permit, possesses kaffir beer in respect of which no such consent or permit was granted;"

(c) by the addition of the following new paragraphs at the end of the section:

"(t) when purchasing any liquor the sale whereof must be entered in a sales register, in terms of section *one hundred and five*, gives to the seller as his (the purchaser's) name or address a name or address which is not his correct name or address"; or

(u) enters in a register referred to in paragraph (b) of sub-section (2) of section *seventy-five*, as his name or address a name or address which is not his correct name or address or enters as the name of a lodger whose guest he purports to be, a fictitious name or the name of a person who is not a lodger at the licensed premises in question or who has not invited him to be his *bona fide* guest."

Amendment of  
section 168 of Act  
30 of 1928.

34. Paragraph (a) of sub-section (1) of section *one hundred and sixty-eight* of the principal Act is hereby amended by the deletion of "or (r)" and the substitution therefor of "(r), (t) or (u)".

Amendment of  
section 172 of Act  
30 of 1928.

35. Section *one hundred and seventy-two* of the principal Act is hereby amended by the insertion at the commencement of paragraph (a) of the words "any provision in".

Amendment of  
section 175 of Act  
30 of 1928.

36. Section *one hundred and seventy-five* of the principal Act is hereby amended—

(a) by the deletion in paragraph (a) of the definition of "native", of the word "and" and the substitution therefor of the words "but excluding";

(b) by the insertion, after the definition of "local authority", of the following new definition:

"lodger", in relation to any licensed premises, means any person (other than an employee of the licensee or of the licensee's principal) who *bona fide* lives and sleeps upon such premises;

(c) by the insertion, after the definition of "supply", of the following definition:

"this Act" includes any regulation in force thereunder";

(d) by the addition to paragraph (e) of the definition of "Transkeian territories" of the words:

"excluding the districts of Maclear and Elliot";

(e) by the addition at the end of the section of the following new sub-section (the existing section as hereby amended thereby becoming sub-section (1)):

"(2) Any reference in this Act to the Third Schedule thereto, shall be deemed to be a reference to that Schedule as modified by any ordinance passed by virtue of the proviso to sub-section (1) of section *twelve*."

Repeal of law.

37. The last proviso to section *one* of the Maclear and Elliot Districts Further Provisions Act, 1913 (Act No. 12 of 1913), paragraphs (a) and (d) of sub-section (1) and sub-section (4) of section *three*, section *four*, paragraph (a) and the letter "(b)" of section *nine*, sub-section (4) of section *thirteen* and the proviso to sub-section (1) of section *seventeen* of the principal Act and section *one* of the Financial Adjustments Act, 1931 (Act No. 45 of 1931) are hereby repealed.

32. Sub-artikel (2) van artikel *honderd-en-sestig* van die Hoofwet word hiermee geskrap en deur die volgende sub-artikel vervang:

Wysiging van artikel 160 van Wet 30 van 1928.

„(2) Wanneer 'n lisensiehouer kragtens die bepaling van sub-artikel (1) aanspreeklik is vir 'n daad of versuim van 'n ander, dan is laasbedoelde ook daarvoor aanspreeklik asof hy die lisensiehouer was: Met die verstande dat die bepaling van hierdie artikel daardie ander persoon nie onthef nie van enige ander aanspreeklikheid wat op hom mag rus afgesien van die aanspreeklikheid wat hy met die lisensiehouer deel.”

33. Artikel *honderd-ses-en-sestig* van die Hoofwet word hiermee gewysig—

Wysiging van artikel 166 van Wet 30 van 1928.

(a) deur in paragraaf (h) na die woord „lisensiehouer” die woorde „of sy dienaar of agent” in te voeg;

(b) deur die volgende woorde aan die end van paragraaf (r) by te voeg:

„op 'n plek of op grond waar volgens artikel *honderd-vyf-en-twintig* of *honderd-ses-en-twintig* geen kafferbier gebrou mag word nie sonder toestemming of permit, kafferbier besit waarvoor geen sodanige toestemming of permit verleen is nie;”

(c) deur die volgende nuwe paragrafe aan die end van die artikel by te voeg:

„(t) wanneer hy drank koop waarvan die verkoop volgens artikel *honderd-en-vyf* in 'n verkoopregister geboek moet word, aan die verkoper as sy (die koper se) naam of adres opgee 'n naam of adres wat nie sy juiste naam of adres is nie; of

(u) in 'n register bedoel in paragraaf (b) van sub-artikel (2) van artikel *vyf-en-sewentig*, as sy naam of adres 'n naam of adres inskrywe wat nie sy juiste naam of adres is nie of as die naam van 'n loseerder wie se gas hy voorgee te wees, inskrywe 'n verdigte naam of die naam van iemand wat nie 'n loseerder in die betrokke gelisensieerde gebou is nie of wat hom nie te goeder trou as sy gas uitgenooi het nie.”

34. Paragraaf (a) van sub-artikel (1) van artikel *honderd-agt-en-sestig* van die Hoofwet word hiermee gewysig deur „of (r)” te skrap en te vervang deur „(r), (t) of (u)”.

Wysiging van artikel 168 van Wet 30 van 1928.

35. Artikel *honderd-twee-en-sewentig* van die Hoofwet word hiermee gewysig deur in paragraaf (a) na die woord „is” die woorde „n bepaling in” in te voeg.

Wysiging van artikel 172 van Wet 30 van 1928.

36. Artikel *honderd-vyf-en-sewentig* van die Hoofwet word hiermee gewysig—

Wysiging van artikel 175 van Wet 30 van 1928.

(a) deur in paragraaf (a) van die omskrywing van „naturel” die woorde „en Hottentotte” te skrap en deur die woorde „maar nie Hottentotte nie” te vervang;

(b) deur na die omskrywing van „plaaslike bestuur” die volgende omskrywing in te voeg:

„loseerder” beteken, met betrekking tot 'n gelisensieerde gebou, iemand (behalwe 'n dienaar van die lisensiehouer of van die lisensiehouer se prinsipaal) wat te goeder trou in die gelisensieerde gebou woon en slaap;

(c) deur na die omskrywing van „verstrek” die volgende omskrywing in te voeg:

„hierdie Wet omvat ook elke uit kragte daarvan geldende regulasie”;

(d) deur aan paragraaf (e) van die omskrywing van „Transkeise gebied” die volgende woorde toe te voeg:

„met uitsondering van die distrikte Maclear en Elliot”;

(e) deur aan die end van die artikel die volgende nuwe sub-artikel by te voeg, waardeur die bestaande artikel, soos hiermee gewysig, sub-artikel (1) word:

(2) Waar in hierdie Wet melding gemaak word van die Derde Bylae daartoe, word daaronder verstaan daardie Bylae soos gewysig deur 'n kragtens die voorbehoudsbepaling tot sub-artikel (1) van artikel *twaalf* ingevoerde ordonnansie.

37. Die laaste voorbehoudsbepaling tot artikel *een* van die „Maclear en Elliot Distrikten Verdere Voorzieningswet, 1913” (Wet No. 12 van 1913), paragrafe (a) en (d) van sub-artikel (1) en sub-artikel (4) van artikel *drie*, artikel *vier*, paragraaf (a) en die letter „(b)” van artikel *nege*, sub-artikel (4) van artikel *dertien* en die voorbehoudsbepaling tot sub-artikel (1) van artikel *sewentien* van die Hoofwet en artikel *een* van die Finansiële Reëlingswet, 1931 (Wet No. 45 van 1931) word hiermee herroep.

Amendment of  
section 4 of Act  
22 of 1916.

38. Paragraph (35) of section *four* of the Railways and Harbours Regulation, Control and Management Act, 1916, is hereby deleted and the following paragraph substituted therefor:

"(35) the sale of articles in refreshment rooms at places under the control of the Administration, and in refreshment cars, subject to the provisions of this Act;"

Substitution of section 58 of Act 22 of 1916, as amended by section 13 of Act 21 of 1931.

39. Section *fifty-eight* of the Railways and Harbours Regulation, Control and Management Act, 1916, is hereby repealed and the following section substituted therefor:

"Refreshment rooms and refreshment cars.

58 (1) The Administration may undertake or provide for the sale of intoxicating liquors, refreshments, smokers' requisites and any other articles which it deems desirable, in any refreshment room at any place under the control of the Administration approved by the Minister, who shall consult the magistrate of the district in which such place is situate, if any intoxicating liquors are to be sold in such refreshment room, and in refreshment cars, subject to the provisions of this Chapter and to any regulation relating to any such sale or refreshment room or car.

(2) No intoxicating liquor may be sold in any such refreshment room—

- (a) in any area in which, in consequence of the taking of any vote under any law, the sale of intoxicating liquor is totally prohibited; or
- (b) at a place (other than a railway junction) situate outside an urban area as defined in section *one hundred and seventy-five* of the Liquor Act, 1928 (Act No. 30 of 1928); or
- (c) to any person to whom, or on any day or at any time when it may not be lawfully sold on any premises in the said district, which are licensed for the sale of intoxicating liquor for consumption thereon: Provided that, subject to any applicable regulation as aforesaid, intoxicating liquor may be sold in any such refreshment room on any day and at any time, to any traveller who spent the previous night at a place at least twenty miles distant from such refreshment room for consumption, by him, in such room: Provided further that in any area in which a licensing board established under the said Act No. 30 of 1928 has the power to extend the hours of sale of intoxicating liquor on any premises licensed under that Act for the sale of intoxicating liquor, or has the power to grant under that Act any other special right to the holder of such a licence, the Minister may exercise similar powers in respect of any such refreshment room in which intoxicating liquors may be sold."

Short title.

40. This Act shall be known as the Liquor Amendment Act, 1934.



38. Paragraaf (35) van artikel vier van die „Spoorwegen en Havens Reglement, Bestuur en Beheer Wet, 1916” word hiermee geskrap en deur die volgende paragraaf vervang:

„(35) de verkoop van artikelen in verversingskamers op plekken onder het beheer van de Administratie en in verversingswagens behoudens de bepalingen van deze Wet;”.

39. Artikel *agt-en-veertig* van die „Spoorwegen en Havens Reglement, Bestuur en Beheer Wet, 1916” word hiermee herroep en deur die volgende artikel vervang:

„Verversingskamers en verversingswagens. 58. (1) De Administratie kan verversingen, bedwelmende drank, rook-benodigdheden en alle andere artikelen die hij wenselijk acht, verkopen of voor de verkoop ervan zorgen in een verversingskamer op een plek onder het beheer van de Administratie, goedgekeurd door de Minister, die de magistraat van het distrikt waarin die plek gelegen is, moet raadplegen indien bedwelmende drank in die verversingskamer verkocht zal worden, en in verversingswagens, met inachtneming van de bepalingen van dit Hoofdstuk en van een of andere regulatie handelende over zulk een verkoop of verversingskamer of wagen.

(2) Geen bedwelmende drank mag in zulk een verversingskamer verkocht worden—

(a) in een gebied waarin ten gevolge van een stemming krachtens een of andere wet, de verkoop van bedwelmende drank geheel verboden is; of

(b) op een plek (behalve bij een spoorwegaansluiting) gelegen buiten een stadsgebied zoals omschreven in artikel *honderd vijf en zeventig* van de Drankwet, 1928 (Wet No. 30 van 1928); of

(c) aan iemand aan wie, of op een dag of op een tijd wanneer dezelve niet verkocht mag worden in een gebou in bedoeld distrikt, dat gelicentieerd is voor de verkoop van bedwelmende drank om daarin gebruikt te worden: Met dien verstande dat, behoudens een of andere toepasselijke regulatie zoals voormeld, bedwelmende drank in zulk een verversingskamer op iedere dag en te eniger tijd verkocht mag worden aan een reiziger, die de vorige nacht doorgebracht heeft op een plek ten minste twintig mijl van die verversingskamer af gelegen, om door hem in die kamer gebruikt te worden: Met dien verstande voorts, dat in een gebied waarin een krachtens voormelde Wet No. 30 van 1928 ingestelde licentieraad bevoegd is om de uren voor de verkoop van bedwelmende drank in een gebouw krachtens die Wet gelicentieerd voor de verkoop van bedwelmende drank, uit te breiden, of bevoegd is om krachtens bedoelde Wet een ander biezonder recht te verlenen aan de houder van zulk een licentie, de Minister soortgelijke bevoegdheden kan uitoefenen met betrekking tot bedoelde verversingskamer waarin bedwelmende drank verkocht mag worden”.

40. Hierdie Wet heet die Drank-Wysigingswet, 1934.

Kort titel: