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OFFICE OF THE PRIME MINISTER.

The following Government Notice is published for general information:—

No. 1247.] [17th June, 1955.

It is hereby 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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KANTOOR VAN DIE EERSTE MINISTER.

Onderstaande Goewermentskennisgewing word ter algemene inligting gepubliseer:—

No. 1247.] [17 Junie 1955.

Hierby word bekend gemaak dat dit Sy Eksellensie die Goewerneur-generaal behaag het om sy goedkeuring te heg aan onderstaande Wette, wat hierby ter algemene inligting gepubliseer word:—

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No. 36, 1955.]

ACT

To provide for the calculation or recalculation of the benefits paid or payable to certain former members or the dependants of certain deceased former members of the several Railways and Harbours pension and superannuation funds, on the basis of amounts in excess of the actual pensionable emoluments of such former members while they were members of the said funds, and for matters incidental thereto.

(Afrikaans Text signed by the Governor-General.)
(Assented to 8th June, 1955.)

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

Definitions.

1. In this Act, unless the context indicates otherwise—

- (i) "actual pensionable emoluments" in relation to any period of pensionable service of a former member or a deceased former member, means the amount on which contributions were payable by the former member or the deceased former member to the fund concerned while he was still a member; (xi)
- (ii) "basic sum" means the actual benefit payable to a dependant of a deceased former member under section *forty-eight* or *forty-nine* of the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912), or under section *thirty-one* or *thirty-two* or section *fifty quat* or *fifty quin* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), and, in relation to a dependant who is a widow to whom an annuity is payable, includes the capital sum on which such annuity is in terms of any of the said sections required to be based; (ii)
- (iii) "beneficiary" in relation to a former member who has died, means any relative of such former member, referred to in section *fifty* of the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912), or section *thirty-three* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), whether or not any benefit is actually payable to him under any provision of either of those Acts in respect of the death of the former member concerned; (iii)
- (iv) "deceased former member" means a person who, having been a member of the New Fund or the Fund on or after the twenty-sixth day of July, 1951, or having, as a member of the 1912 pension fund, made the election provided for in sub-section (1) of section *fifty quat* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925)—
 - (a) died prior to the first day of October, 1953, while he was still in the service; or
 - (b) died on or after the first day of October, 1953, but prior to the twenty-third day of April, 1954, while he was still in the Service and without having made the election provided for in sub-section (1) of section *three* of the Railways and Harbours Special Pensions Act, 1953 (Act No. 41 of 1953); or
 - (c) retired or was retired from the Service on an annuity otherwise than under the circumstances mentioned in section *eleven bis* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)—
 - (i) on or before the first day of October, 1953, and thereafter died prior to the date of commencement of this Act; or

No. 36, 1955.]

WET

Om voorsiening te maak vir die berekening of herberekening van die voordele betaal of betaalbaar aan sekere voormalige lede of die afhanklikes van sekere oorlede voormalige lede van die onderskeie pensioen- en superannuasiefondse van die Spoorweë en Havens, op grondslag van bedrae wat hoër is as die werklike pensioendraende emolumente van sodanige voormalige lede terwyl hulle lede van bedoelde fondse was, en vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Goewerneur-generaal geteken.)
(Goedgekeur op 8 Junie 1955.)

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

1. In hierdie Wet, tensy uit die samehang anders blyk, **Woordbepaling** beteken—

- (i) „afhanklike”, met betrekking tot ’n oorlede voormalige lid, enigiemand wat in artikel vyftig van die „Spoorweg en Havendienst Wet, 1912” (Wet No. 28 van 1912), of artikel drie-en-dertig van die „Spoorwegen en Havens Superannuatie Fonds Wet, 1925” (Wet No. 24 van 1925), bedoel word en aan wie ’n voordeel ingevolge een of ander bepaling van een van daardie Wette toegeken is, of wat op so ’n toekenning geregtig word, uit hoofde van die dood van—
 - (a) die betrokke oorlede voormalige lid; of
 - (b) enigiemand anders wat in een van genoemde artikels bedoel word, aan wie ’n voordeel soos voormeld toegeken was ten gevolge van die dood van die betrokke oorlede voormalige lid; (v)
- (ii) „basiese som”, die werklike voordeel betaalbaar aan ’n afhanklike van ’n oorlede voormalige lid ingevolge artikel agt-en-veertig of negen-en-veertig van die „Spoorweg en Havendienst Wet, 1912” (Wet No. 28 van 1912), of ingevolge artikel een-en-dertig of twee-en-dertig of artikel vyftig quat of vyftig quin van die „Spoorwegen en Havens Superannuatie Fonds Wet, 1925” (Wet No. 24 van 1925), en, met betrekking tot ’n afhanklike wat ’n weduwee is aan wie ’n jaargeld betaalbaar is, omvat dit die kapitaalsom waarop sodanige jaargeld volgens voorskrif van een of ander van bedoelde artikels gebaseer moet word; (ii)
- (iii) „bevoordeelde”, met betrekking tot ’n voormalige lid wat te sterwe gekom het, ’n familiebetrekking van sodanige voormalige lid wat bedoel word in artikel vyftig van die „Spoorweg en Havendienst Wet, 1912” (Wet No. 28 van 1912), of artikel drie-en-dertig van die „Spoorwegen en Havens Superannuatie Fonds Wet, 1925” (Wet No. 24 van 1925), ongeag of ’n voordeel werklik ingevolge een of ander bepaling van een van daardie Wette ten opsigte van die dood van die betrokke voormalige lid aan hom betaalbaar is al dan nie; (iii)
- (iv) „fonds”, die Nuwe Fonds, die Fonds of die 1912-pensioenfonds na gelang van watter een toepaslik is; (viii)
- (v) „Hoofwet” die „Spoorweg en Havendienst Wet, 1912” (Wet No. 28 van 1912), of die „Spoorwegen en Havens Superannuatie Fonds Wet, 1925” (Wet No. 24 van 1925) na gelang van watter van die twee toepaslik is; (xi)
- (vi) „lid”, enigiemand wat op daardie tydstip ’n dienaar en ’n bydraer tot ’n fonds was; (ix)
- (vii) „oorlede voormalige lid”, iemand wat op of na die ses-en-twintigste dag van Julie 1951, ’n lid van die Nuwe Fonds of die Fonds was of wat, as lid van die 1912-pensioenfonds, die keuse uitgeoefen het waarvoor in artikel vyftig quat van die „Spoorwegen en Havens Superannuatie Fonds Wet, 1925” (Wet No. 24 van 1925), voorsiening gemaak word, en—

- (ii) after the first day of October, 1953, and thereafter died prior to the twenty-third day of April, 1954, without having made the election referred to in paragraph (b) of this definition; (vii)
- (v) "dependant" in relation to a deceased former member, means any person referred to in section *fifty* of the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912), or section *thirty-three* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), who has been, or becomes entitled to be, awarded a benefit under any provision of either of those Acts in consequence of the death of—
 - (a) the deceased former member concerned; or
 - (b) any other person referred to in either of the said sections to whom a benefit had been awarded as aforesaid in consequence of the death of the deceased former member concerned; (i)
- (vi) "fixed date" means the first day of April, 1944, or the twenty-sixth day of March, 1944 (whichever was the commencing date of the April, 1944, paymonth in relation to the former member or the deceased former member concerned), or the date upon which the former member's or the deceased former member's membership of the fund concerned commenced, if that date was later than the first day of April, 1944, or the twenty-sixth day of March, 1944, as the case may be; (ix)
- (vii) "former member" means a person who, having been a member on or after the commencement of the April, 1944, paymonth, retired or was retired from the Service on an annuity (otherwise than under the circumstances mentioned in section *eleven bis* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)), on or before the first day of October, 1953, and is alive at the date of commencement of this Act; (x)
- (viii) "fund" means the New Fund, the Fund or the 1912 pension fund, whichever may be applicable; (iv)
- (ix) "member" means a person who was for the time being a servant and a contributor to a fund; (vi)
- (x) "percentage addition" in relation to the pensionable emoluments of a former member or a deceased former member, means a sum equal to twenty-five per cent. of the actual pensionable emoluments of the former member or the deceased former member at any given time while he was still a member; (viii)
- (xi) "principal Act" means the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912), or the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), whichever may be applicable; (v)

and any other expression to which a meaning is assigned in section *one* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), shall, when used in this Act, bear the same meaning.

Pensionable emoluments of certain former members of pension funds deemed to have been increased by twenty-five per cent.

2. The pensionable emoluments of every former member and of every deceased former member during the period of his service between the fixed date and the date upon which he ceased to be a member or the thirtieth day of September, 1953 (whichever is the earlier), shall, for the purpose of this Act, but for no other purpose, be deemed to have been an amount equal to his actual pensionable emoluments from time to time over the said period, increased by twenty-five per cent.

How benefits to be calculated or recalculated.

3. (1) Any benefit—
- (a) awarded to a former member, by reason of his retirement, from the fund concerned or in terms of any provision of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925); or
 - (b) awarded or to be awarded (whether before or after the commencement of this Act), from the fund concerned to any dependant,

- (a) voor die eerste dag van Oktober 1953, te sterwe gekom het terwyl hy nog in die Diens was; of
- (b) op of na die eerste dag van Oktober 1953, maar voor die drie-en-twintigste dag van April 1954, te sterwe gekom het terwyl hy nog in die Diens was en sonder dat hy die keuse uitgeoefen het waarvoor in sub-artikel (1) van artikel drie van die Spoorweg- en Hawepensioenwet, 1953 (Wet No. 41 van 1953), voorsiening gemaak word; of
- (c) uit die Diens getree het of verplig is om uit die Diens te tree met 'n jaargeld onder ander omstandighede as dié wat in artikel elf bis van die „Spoorwegen en Havens Dienst Wet, 1925" (Wet No. 23 van 1925), genoem word—
 - (i) op of voor die eerste dag van Oktober 1953, en daarna voor die datum van inwerking-treding van hierdie Wet te sterwe gekom het; of
 - (ii) na die eerste dag van Oktober 1953, en daarna voor die drie-en-twintigste dag van April 1954, te sterwe gekom het sonder dat hy die in paragraaf (b) van hierdie woordbepaling bedoelde keuse uitgeoefen het; (iv)
- (viii) „persentasie-toevoeging", met betrekking tot die pensioendraende emolumente van 'n voormalige lid of 'n oorlede voormalige lid, 'n som gelyk aan vyf-en-twintig persent van die werklike pensioendraende emolumente van die voormalige lid of die oorlede voormalige lid op enige gegewe tyd terwyl hy nog 'n lid was; (x)
- (ix) „vasgestelde datum", die eerste dag van April 1944, of die ses-en-twintigste dag van Maart 1944 (na gelang van watter die aanvangsdatum van die betaalmaand April 1944 met betrekking tot die betrokke voormalige lid of oorlede voormalige lid was), of die datum waarop die voormalige lid of die oorlede voormalige lid se lidmaatskap van die betrokke fonds 'n aanvang geneem het, indien daardie datum jonger was as die eerste dag van April 1944, of die ses-en-twintigste dag van Maart 1944, na gelang van die geval; (vi)
- (x) „voormalige lid", iemand wat op of na die aanvangsdatum van die betaalmaand April 1944 'n lid was, en wat op of voor die eerste dag van Oktober 1953 uit die Diens getree het, of verplig is om uit die Diens te tree, met 'n jaargeld (onder ander omstandighede as dié wat in artikel elf bis van die „Spoorwegen en Havens Dienst Wet, 1925" (Wet No. 23 van 1925), genoem word) en op die datum van inwerkingtreding van hierdie Wet nog lewende is; (vii)
- (xi) „werklike pensioendraende emolumente", met betrekking tot enige tydperk van die pensioendraende diens van 'n voormalige lid of 'n oorlede voormalige lid, die bedrag waarop bydraes deur die voormalige lid of die oorlede voormalige lid aan die betrokke fonds betaalbaar was terwyl hy nog 'n lid was; (i)

en het enige ander uitdrukking, waaraan 'n betekenis toegeskryf word in artikel een van die „Spoorwegen en Havens Superannuatie Fonds Wet, 1925" (Wet No. 24 van 1925), dieselfde betekenis wanneer dit in hierdie Wet gebesig word.

2. Die pensioendraende emolumente van elke voormalige lid en van elke oorlede voormalige lid gedurende die tydperk van sy diens tussen die vasgestelde datum en die datum waarop hy opgehou het om 'n lid te wees of die dertigste dag van September 1953, na gelang van watter die vroegste is, word vir die doeleindes van hierdie Wet maar vir geen ander doel nie, geag 'n bedrag te gewees het gelyk aan sy werklike pensioendraende emolumente van tyd tot tyd gedurende bedoelde tydperk, verhoog met vyf-en-twintig persent.

Pensioendraende emolumente van sekere voormalige lede van pensioenfondse word geag met vyf-en-twintig persent verhoog te gewees het.

3. (1) Enige voordeel wat—

- (a) uit die betrokke fonds of ingevolge een of ander bepaling van die „Spoorwegen en Havens Dienst Wet, 1925" (Wet No. 23 van 1925), aan 'n voormalige lid toegeken is uit hoofde van sy uitdienstreding; of
- (b) hetsy voor of na die inwerkingtreding van hierdie Wet uit die betrokke fonds aan 'n afhanklike toegeken is of moet word,

Hoe voordele bereken of herbereken word.

shall, subject to the provisions of sub-section (2), be calculated or recalculated as the case may require, on the basis prescribed in section *two*, and with due regard to the provisions of sub-section (4) of this section.

(2) If notification of the death of any dependant is received by the Administration's Chief Pensions Officer before such dependant's case has been dealt with pursuant to sub-section (1), the calculation or recalculation referred to in that sub-section shall not be made in so far as such deceased dependant is concerned, and if notification of the death of any dependant is so received after his case has been so dealt with but before the posting of the cheque or warrant by means of which payment was to have been made of any additional sum which may have been found to be payable to him by virtue of paragraph (b) of sub-section (5), payment of such additional sum shall lapse and the dependant's estate shall have no claim thereto.

(3) The amount representing the gross increase in the basic sum which results from the calculation or recalculation, in terms of sub-section (1), of any benefit awarded to a dependant, shall not be reduced by reason of the fact that a portion of the gross annuity awarded to the deceased former member concerned was commuted on his retirement.

(4) For the purpose of calculating or recalculating any benefit in accordance with sub-section (1) it shall be assumed that there is due to the fund concerned, in addition to the contributions at the applicable rate on the percentage addition to the pensionable emoluments of the former member or the deceased former member concerned, also interest on such contributions at the rate of four and one-half per cent. per annum, compounded quarterly from the date or dates on which such contributions would have been payable had the percentage addition in fact formed part of his pensionable emoluments during the period mentioned in section *two*, up to and including the thirtieth day of September, 1953.

(5) If the result of the calculation or recalculation of any benefit in accordance with sub-section (1) shows that—

- (a) it would be of no advantage to the former member or the dependant concerned to give effect thereto, this Act shall, in relation to such former member or such dependant, be deemed not to have been passed;
- (b) it would be of advantage to the former member or the dependant concerned to give effect thereto, any additional benefit which results therefrom, shall be paid to the person entitled to receive it, subject to and in accordance with the succeeding provisions of this Act.

How arrear contributions and interest to be recovered.

4. (1) In every case where paragraph (b) of sub-section (5) of section *three* applies, the arrear contributions and interest referred to in sub-section (4) of that section shall be recovered for the benefit of the fund concerned as provided in sub-sections (2) and (3) of this section.

(2) In the case of a former member, the gross additional annuity which results from the recalculation, in accordance with sub-section (1) of section *three*, of the benefit awarded to him upon his retirement shall, notwithstanding anything to the contrary in any law contained, be commuted, in accordance with the Tables set forth in the Schedule to this Act, as to such portion thereof as will yield a lump sum equal to or as little as possible in excess of, the total amount of such contributions and interest, but in any event not in a smaller proportion than that which the portion of the former member's annuity which was commuted upon his retirement, bore to his full annuity, and such lump sum may be applied, so far as need be, towards the payment, to the fund concerned, of such contributions and interest.

(3) In the case of a dependant, the amount representing the gross increase in the basic sum, which results from the calculation or recalculation, in accordance with sub-section (1) of section *three*, of any benefit paid or payable to such dependant, may be applied, so far as need be, towards the payment to the fund concerned, of such contributions and interest.

(4) So much of any lump sum derived from any commutation effected in terms of sub-section (2) as is not applied towards the payment of such contributions and interest shall, subject to the provisions of sub-section (1) of section *six*, be paid to the former member concerned.

(5) The Administration shall contribute to the fund concerned an amount equal to the aggregate of the amounts paid to that fund in terms of sub-sections (2) and (3).

word, behoudens die bepalinge van sub-artikel (2), bereken of herbereken, na gelang die geval vereis, op die grondslag in artikel *twee* voorgeskryf, en met behoorlike inagneming van die bepalinge van sub-artikel (4) van hierdie artikel.

(2) Indien die Administrasie se hoofpensioenbeampte van die afsterwe van 'n afhanklike in kennis gestel word voordat die geval van so 'n afhanklike ingevolge sub-artikel (1) behandel is, word die berekening of herberekening wat in daardie sub-artikel bedoel word, nie gedoen nie vir sover dit daardie oorlede afhanklike aanbetref, en indien kennisgewing van die afsterwe van 'n afhanklike aldus ontvang word nadat sy geval aldus behandel is maar voordat die tjek of order deur middel waarvan betaling sou geskied het van enige addisionele som wat bevind mag gewees het uit hoofde van paragraaf (b) van sub-artikel (5) aan hom betaalbaar te wees, op die pos gedoen is, verval die betaling van sodanige addisionele som en het die boedel van die afhanklike geen aanspraak daarop nie.

(3) Die bedrag verteenwoordigende die bruto-verhoging van die basiese som wat voortvloei uit die berekening of herberekening, ingevolge sub-artikel (1), van 'n voordeel aan 'n afhanklike toegeken, word nie verminder op grond daarvan dat 'n gedeelte van die bruto-jaargeld wat aan die betrokke oorlede voormalige lid toegeken is, by sy uitdienstreding omgeset is nie.

(4) By die berekening of herberekening van 'n voordeel ooreenkomstig sub-artikel (1) word veronderstel dat daar, bo en behalwe die bydraes teen die toepaslike skaal op die persentasie-toevoeging tot die pensioendraende emolumente van die betrokke voormalige lid of oorlede voormalige lid, aan die betrokke fonds ook rente op sodanige bydraes verskuldig is teen die voet van vier-en-'n-half persent per jaar, driemaandeliks saamgestel vanaf die datum of datums waarop sulke bydraes betaalbaar sou gewees het indien die persentasie-toevoeging in werklikheid gedurende die in artikel *twee* vermelde tydperk deel van sy pensioendraende emolumente uitgemaak het, tot en met die dertigste dag van September, 1953.

(5) Indien die resultaat van die berekening of herberekening van 'n voordeel ooreenkomstig sub-artikel (1) toon dat—

- (a) dit die betrokke voormalige lid of afhanklike nie tot voordeel sou strek om daaraan gevolg te gee nie, word hierdie Wet met betrekking tot so 'n voormalige lid of so 'n afhanklike geag nie aangeneem te gewees het nie;
- (b) dit die betrokke voormalige lid of afhanklike tot voordeel sou strek om daaraan gevolg te gee, word enige addisionele voordeel wat daaruit voortvloei, aan die persoon wat daarop geregtig is, betaal, onderworpe aan en ooreenkomstig die hieropvolgende bepalinge van hierdie Wet.

4. (1) In elke geval waar paragraaf (b) van sub-artikel (5) van artikel *drie* van toepassing is, word die agterstallige bydraes en rente wat in sub-artikel (4) van daardie artikel bedoel word, ten bate van die betrokke fonds verhaal volgens voorskrif van sub-artikels (2) en (3) van hierdie artikel.

Hoe agterstallige bydraes en rente verhaal moet word.

(2) In die geval van 'n voormalige lid word die bruto-addisionele jaargeld wat verkry word uit die herberekening, ooreenkomstig sub-artikel (1) van artikel *drie*, van die voordeel wat by sy uitdienstreding aan hom toegeken is, ondanks enige andersluidende wetsbepaling, omgeset, ooreenkomstig die Tabele wat in die Bylae by hierdie Wet opgeneem is, ten opsigte van so 'n gedeelte daarvan as wat 'n ronde som sal oplewer gelyk aan of so min moontlik groter dan, die totaalbedrag van sodanige bydraes en rente, maar in elk geval nie in 'n kleiner verhouding nie as dié waarin die gedeelte van die voormalige lid se jaargeld wat by sy uitdienstreding omgeset is, tot sy volle jaargeld gestaan het, en sodanige ronde som kan vir sover nodig aangewend word ter betaling, aan die betrokke fonds, van sodanige bydraes en rente.

(3) In die geval van 'n afhanklike kan die bedrag verteenwoordigende die bruto-verhoging van die basiese som, wat verkry word uit die berekening of herberekening, ooreenkomstig sub-artikel (1) van artikel *drie*, van 'n voordeel wat aan so 'n afhanklike betaal of betaalbaar is, vir sover nodig aangewend word ter betaling, aan die betrokke fonds, van sodanige bydraes en rente.

(4) Behoudens die bepalinge van sub-artikel (1) van artikel *ses*, word soveel van 'n ronde som verkry uit 'n omsetting ingevolge sub-artikel (2) as wat nie ter betaling van sodanige bydraes en rente aangewend word nie, aan die betrokke voormalige lid betaal.

(5) Die Administrasie moet 'n bedrag gelyk aan die totaal van die bedrae wat ooreenkomstig sub-artikels (2) en (3) aan die betrokke fonds betaal is, tot daardie fonds bydra.

Provision with regard to payment of increased annuities and other benefits.

5. (1) If, by virtue of paragraph (b) of sub-section (5) of section *three*, any additional sum becomes payable by way of annuity—

- (a) to a former member, payment of such additional sum shall be made to him with effect from the first day of October, 1953, subject, however, to the provisions of sub-section (1) of section *six*;
- (b) to the widow of a deceased former member, payment of such additional sum shall be made to her—
 - (i) with effect from the first day of October, 1953, if her husband died prior to that date; or
 - (ii) with effect from the date following that on which his death occurred, if he died on or after the first day of October, 1953.

(2) If under any provision of the principal Act a lump sum was paid to the widow of a deceased former member in lieu of an annuity for the reason that the annuity amounted to less than thirty-six pounds, the net amount by which the basic sum is increased in consequence of the recalculation of the benefit in accordance with sub-section (1) of section *three*, shall be paid to her in a lump sum even if, had the benefit originally been calculated on that basis, an annuity would have been payable.

Disposal of additional benefits accruing to former member who dies, and calculation of benefits to dependants of such former member.

6. (1) (a) If notification of the death of a former member is received by the Administration's Chief Pensions Officer before his case has been dealt with under this Act, and any additional sum is thereafter, upon the recalculation of the benefit awarded to him upon his retirement, found to be payable in terms of sub-section (4) of section *four* or sub-section (1) of section *five*, payment of any sum found to be due in terms of the first-mentioned sub-section, or in terms of the last-mentioned sub-section up to the date of his death, shall not be made to his estate but shall be made to such beneficiary (if any) as is then alive and is entitled to receive any benefit under the principal Act in respect of the death of the former member concerned, or would have been entitled to receive such benefit had it not become exhausted by payments made to the former member during his lifetime: Provided that nothing in this paragraph contained shall be deemed to entitle the estate of any such beneficiary who has died, to claim payment of any such sum that would have been paid to him had he remained alive.

(b) The provisions of paragraph (a) shall also apply where notification of the death of a former member is received as aforesaid after his case has been dealt with under this Act but before the cheque or warrant by means of which payment was to have been made of any sum which may have been found to be payable to him as aforesaid, has been posted.

(2) For the purpose of arriving at the sum payable to a beneficiary in respect of the death of a former member, the gross amount by which his benefit is increased by virtue of the application of this Act shall be reduced—

- (a) in the proportion which the portion of the former member's gross additional annuity which was commuted in terms of sub-section (2) of section *four*, bore to the full gross additional annuity; and
- (b) by any amount referred to in paragraph (a) of sub-section (1) of section *five*, which was disposed of in terms of paragraph (a) or (b) of sub-section (1) of this section.

(3) For the purposes of sub-section (2) the expression "benefit" means the lump sum (whether in the form of a refund of contributions or otherwise) payable to a beneficiary in terms of any provision of the principal Act and, in the case of a beneficiary who is a widow to whom an annuity is payable, means the capital sum on which the calculation of such annuity is in terms of the applicable provision of the principal Act required to be based.

Unclaimed moneys.

7. If any moneys that become payable to any person in terms of paragraph (b) of sub-section (5) of section *three* are not claimed by him within a period of twelve months after the date on which notification of the fact that such moneys have become payable, was despatched to his last known address, such

5. (1) Indien, uit hoofde van paragraaf (b) van sub-artikel (5) van artikel drie, 'n addisionele som by wyse van jaargeld betaalbaar word—

Voorsiening met betrekking tot betaling van verhoogde jaargelde en ander voordele.

- (a) aan 'n voormalige lid, geskied betaling van sodanige addisionele som aan hom met ingang van die eerste dag van Oktober 1953, onderworpe egter aan die bepaling van sub-artikel (1) van artikel ses;
- (b) aan die weduwee van 'n oorlede voormalige lid, geskied betaling van sodanige addisionele som aan haar—
 - (i) met ingang van die eerste dag van Oktober 1953, indien haar eggenoot voor daardie datum te sterwe gekom het; of
 - (ii) met ingang van die datum na dié waarop hy oorlede is, indien hy op of na die eerste dag van Oktober 1953, te sterwe gekom het.

(2) Indien 'n ronde som in plaas van 'n jaargeld ingevolge een of ander bepaling van die Hoofwet aan die weduwee van 'n oorlede voormalige lid betaal is omdat die jaargeld minder as ses-en-dertig pond bedra het, word die netto-bedrag waarmee die basiese som verhoog word ten gevolge van die herberekening van die voordeel ooreenkomstig sub-artikel (1) van artikel drie, in 'n ronde som aan haar betaal selfs al sou 'n jaargeld betaalbaar gewees het as die voordeel oorspronklik op daardie grondslag bereken was.

6. (1) (a) Indien die Administrasie se hoofpensionearbeamtse van die afsterwe van 'n voormalige lid in kennis gestel word voordat sy geval ingevolge hierdie Wet behandel is, en daar vervolgens by die herberekening van die voordeel wat by sy uitdienststeking aan hom toegeken is, bevind word dat 'n addisionele som ingevolge sub-artikel (4) van artikel vier of sub-artikel (1) van artikel vyf betaalbaar is, geskied betaling van 'n som wat bevind word betaalbaar te wees ingevolge eersgenoemde sub-artikel, of ingevolge laasgenoemde sub-artikel tot op datum van sy dood, nie aan sy boedel nie maar wel aan die bevoordeelde (indien daar een is) wat dan lewende is en geregtig is om ingevolge die Hoofwet 'n voordeel ten opsigte van die dood van die betrokke voormalige lid te ontvang, of geregtig sou gewees het om so 'n voordeel te ontvang as dit nie verteer was deur betalings wat aan die voormalige lid gedurende sy leeftyd gedoen is nie: Met dien verstande dat geen bepaling van hierdie paragraaf geag word aan die boedel van so 'n bevoordeelde wat te sterwe gekom het, die reg te gee om aanspraak te maak op die betaling van so 'n som wat aan hom betaal sou geword het as hy die lewe behou het.

Beskikking oor addisionele voordele wat toekom aan voormalige lid wat te sterwe kom, en berekening van voordele aan afhanklikes van sodanige voormalige lid.

- (b) Die bepaling van paragraaf (a) is ook van toepassing waar kennisgewing van die dood van 'n voormalige lid soos voormeld ontvang word nadat sy geval ingevolge hierdie Wet behandel is maar voordat die tjek of order deur middel waarvan betaling sou geskied het van 'n som wat soos voormeld mag geblyk het aan hom betaalbaar te wees, op die pos gedoen is.

(2) Vir die doel van die berekening van die som wat aan 'n bevoordeelde ten opsigte van die dood van 'n voormalige lid betaalbaar is, word die bruto-bedrag waarmee sy voordeel verhoog word uit hoofde van die toepassing van hierdie Wet, verminder—

- (a) in die verhouding waarin die gedeelte van die voormalige lid se bruto addisionele jaargeld wat ingevolge sub-artikel (2) van artikel vier omgeset is, tot die volle bruto addisionele jaargeld gestaan het; en

- (b) met enige bedrag bedoel in paragraaf (a) van sub-artikel (1) van artikel vyf, waaroor ingevolge paragraaf (a) of (b) van sub-artikel (1) van hierdie artikel beskik is.

(3) By die toepassing van sub-artikel (2) beteken die uitdrukking „voordeel” die ronde som (hetsy in die vorm van 'n terugbetaling van bydraes of andersins) wat ingevolge een of ander bepaling van die Hoofwet aan 'n bevoordeelde betaalbaar is en, in die geval van 'n bevoordeelde wat 'n weduwee is aan wie 'n jaargeld betaalbaar is, beteken dit die kapitaalsom waarop die berekening van so 'n jaargeld volgens voorskrif van die toepaslike bepaling van die Hoofwet gebaseer moet word.

7. Indien gelde wat ingevolge paragraaf (b) van sub-artikel (5) van artikel drie aan iemand betaalbaar word, nie deur hom opgeëis word nie binne 'n tydperk van twaalf maande na die datum waarop kennisgewing van die feit dat hulle betaalbaar geword het, aan sy laasbekende adres gestuur is, verval die reg

Onopgeëiste gelde.

person's right to claim payment of such moneys shall be extinguished and no further liability with respect thereto shall attach to the Administration or to the fund concerned.

Application of
Act to South-
West Africa.

8. This Act shall apply to the Territory of South-West Africa.

Short title
and date of
commencement.

9. This Act shall be called the Railways and Harbours Special Pensions Act, 1955, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

Schedule.

TABLES TO BE APPLIED IN CONNECTION WITH COMMUTATION OF ANNUITIES UNDER SECTION FOUR.

A. Where former member retired on ground of severe bodily injury, permanent ill-health or physical disability, occasioned without own default:

Nearest age at 30th September, 1953.	Number of pounds for each pound of annuity commuted.	
	Male member.	Female member.
Females up to—		
55 years	—	12.96
56 "	—	12.67
57 "	—	12.37
58 "	—	12.07
59 "	—	11.77
60 "	—	11.47
Males up to—		
60 years	10.32	—
Males and females—		
61 years	10.03	11.16
62 "	9.72	10.83
63 "	9.42	10.50
64 "	9.11	10.17
65 "	8.81	9.83
66 "	8.50	9.49
67 "	8.19	9.14
68 "	7.88	8.79
69 "	7.57	8.44
70 "	7.26	8.09

B. Where former member retired on ground of superannuation or retrenchment:

Nearest age at 30th September, 1953.	Number of pounds for each pound of annuity commuted.	
	Male member.	Female member.
Up to—		
30 years	16.39	16.80
31 "	16.26	16.69
32 "	16.13	16.58
33 "	16.00	16.46
34 "	15.86	16.34
35 "	15.72	16.22
36 "	15.57	16.09
37 "	15.42	15.96
38 "	15.26	15.83
39 "	15.10	15.69
40 "	14.93	15.55
41 "	14.75	15.40
42 "	14.57	15.25
43 "	14.38	15.09
44 "	14.18	14.93
45 "	13.97	14.76
46 "	13.76	14.59
47 "	13.54	14.41
48 "	13.31	14.23
49 "	13.07	14.05
50 "	12.82	13.87
51 "	12.57	13.69
52 "	12.32	13.51
53 "	12.07	13.33
54 "	11.82	13.15
55 "	11.57	12.96
56 "	11.32	12.67

van so iemand om betaling van sodanige gelde te eis, en rus daar geen verdere aanspreeklikheid met betrekking daartoe op die Administrasie of die betrokke fonds nie.

8. Hierdie Wet is op die Gebied Suidwes-Afrika van toepassing.

Toepassing van hierdie Wet op Suidwes-Afrika.

9. Hierdie Wet heet die Spesiale Spoorweg- en Hawepensioenwet, 1955, en tree in werking op 'n datum wat die Goewerneur-generaal by proklamasie in die *Staatskoerant* bepaal.

Kort titel en datum van inwerkingtreding.

Bylae.

TABELLE WAT TOEGEPAS MOET WORD IN VERBAND MET DIE OMSETTING VAN JAARGELDE OOREENKOMSTIG ARTIKEL VIER.

A. Waar voormalige lid weens ernstige liggaamlike besering, voortdurende slegte gesondheid of liggaamlike ongeskiktheid, wat sonder sy eie skuld opgedoen is, uit die Diens getree het.

Naaste leeftyd op 30 September 1953.	Aantal ponde vir elke pond van jaargeld omgesit.	
	Manlike lid.	Vroulike lid.
Vrouens tot—		
55 jaar	—	12·96
56 "	—	12·67
57 "	—	12·37
58 "	—	12·07
59 "	—	11·77
60 "	—	11·47
Mans tot—		
60 jaar	10·32	—
Mans en vrouens—		
61 jaar	10·03	11·16
62 "	9·72	10·83
63 "	9·42	10·50
64 "	9·11	10·17
65 "	8·81	9·83
66 "	8·50	9·49
67 "	8·19	9·14
68 "	7·88	8·79
69 "	7·57	8·44
70 "	7·26	8·09

B. Waar voormalige lid weens superannuasie of besnoeiing uit die Diens getree het:

Naaste leeftyd op 30 September 1953.	Aantal ponde vir elke pond van jaargeld omgesit.	
	Manlike lid.	Vroulike lid.
Tot—		
30 jaar	16·39	16·80
31 "	16·26	16·69
32 "	16·13	16·58
33 "	16·00	16·46
34 "	15·86	16·34
35 "	15·72	16·22
36 "	15·57	16·09
37 "	15·42	15·96
38 "	15·26	15·83
39 "	15·10	15·69
40 "	14·93	15·55
41 "	14·75	15·40
42 "	14·57	15·25
43 "	14·38	15·09
44 "	14·18	14·93
45 "	13·97	14·76
46 "	13·76	14·59
47 "	13·54	14·41
48 "	13·31	14·23
49 "	13·07	14·05
50 "	12·82	13·87
51 "	12·57	13·69
52 "	12·32	13·51
53 "	12·07	13·33
54 "	11·82	13·15
55 "	11·57	12·96
56 "	11·32	12·67

Nearest age at 30th September, 1953.	Number of pounds for each pound of annuity commuted.	
	Male member.	Female member.
Up to—		
57 years	11·07	12·37
58 "	10·82	12·07
59 "	10·57	11·77
60 "	10·32	11·47
61 "	10·03	11·16
62 "	9·72	10·83
63 "	9·42	10·50
64 "	9·11	10·17
65 "	8·81	9·83
66 "	8·50	9·49
67 "	8·19	9·14
68 "	7·88	8·79
69 "	7·57	8·44
70 "	7·26	8·09

Naaste leeftyd op 30 September 1953.	Aantal ponde vir elke pond van jaargeld omgesit.	
	Manlike lid.	Vroulike lid.
Tot—		
57 jaar	11·07	12·37
58 „	10·82	12·07
59 „	10·57	11·77
60 „	10·32	11·47
61 „	10·03	11·16
62 „	9·72	10·83
63 „	9·42	10·50
64 „	9·11	10·17
65 „	8·81	9·83
66 „	8·50	9·49
67 „	8·19	9·14
68 „	7·88	8·79
69 „	7·57	8·44
70 „	7·26	8·09

No. 37, 1955.]

ACT

To regulate the procedure to be followed and the assessment of the compensation to be paid by the Railway Administration in connection with and pursuant to the exercise by it of the powers of expropriation conferred upon it by law; to define the powers of the said Administration in connection with the construction and maintenance of railways, and to provide for other incidental matters.

(English Text signed by the Governor-General.)
(Assented to 8th June, 1955.)

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

Definitions.

1. In this Act, unless the context indicates otherwise—

- (i) "Administration" has the meaning assigned to that expression in sub-section (1) of section *two* of the principal Act; (i)
- (ii) "date of expropriation" in relation to any property, means the date upon which notice of the expropriation of that property is served upon the owner or is published in the *Gazette*, as the case may be, and where such notice is both so served and so published, the date upon which it is so served; (ii)
- (iii) "immovable property" includes any servitude or other real right in or over immovable property; (vi)
- (iv) "owner" means, in relation to land or any registered right in or over land, the person in whose name the land or right is registered and, in relation to any property, includes—
 - (a) if the owner is dead, the executor in his estate or if there is no executor, the Master;
 - (b) if the estate of the owner has been sequestrated, the trustee of his insolvent estate, or if there is no trustee, the Master;
 - (c) if the property has vested in a liquidator or trustee elected or appointed under the Farmers' Assistance Act, 1935 (Act No. 48 of 1935), that liquidator or trustee;
 - (d) if the owner is a company which is being wound up, the liquidator thereof; and
 - (e) if the owner is otherwise under legal disability, his legal representative; (iii)
- (v) "principal Act" means the Railways and Harbours Regulation, Control and Management Act, 1916 (Act No. 22 of 1916); (v)
- (vi) "property" includes both movable and immovable property. (iv)

Reference to "relevant law" in paragraph (a) of section 3 of Act 22 of 1916 to be construed as reference to this Act.

2. The reference in paragraph (a) of section *three* of the principal Act to "the relevant law relating to the expropriation or use of land or water" shall be construed as a reference to this Act.

Procedure to be followed in connection with expropriation of property or rights.

3. (1) Whenever the Administration proposes to expropriate or take any property which it is by the principal Act or the Railways Construction Act, 1922 (Act No. 30 of 1922), empowered to expropriate or take, it shall cause a notice to be served by personal delivery or by registered post upon the owner and upon every person to whom such property has been hypothecated, setting forth clearly and fully the property which is being expropriated or taken and requiring the said owner to state the amount (if any) claimed by him as compensation for such property or for any damage alleged to have been sustained by him in consequence of the expropriation.

(2) If the whereabouts of the owner or other person referred to in sub-section (1) is not readily ascertainable, or if by reason

No. 37, 1955.]

WET

Tot reëling van die prosedure wat gevolg moet word en die berekening van die vergoeding wat betaal moet word deur die Spoorwegadministrasie in verband met en ingevolge die uitoefening deur hom van die bevoegdhede tot onteining wat by wet aan hom verleen is; om die bevoegdhede van bedoelde Administrasie in verband met die aanleg en instandhouding van spoorweë te bepaal, en om vir ander verbandhoudende aangeleenthede voorsiening te maak.

(Engelse Tekst deur die Goewerneur-generaal geteken.)
(Goedgekeur op 8 Junie 1955.)

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

1. In hierdie Wet, tensy uit die samehang anders blyk— Woordbepaling.

- (i) het „Administrasie” die betekenis wat aan daardie uitdrukking toegeskryf word in sub-artikel (1) van artikel twee van die Hoofwet; (i) en beteken—
- (ii) „datum van onteining” met betrekking tot enige goed, die dag waarop kennisgewing van die onteining van daardie goed op die eienaar bestel of in die *Staatskoerant* gepubliseer word, na gelang van die geval, en wanneer sodanige kennisgewing sowel aldus bestel as aldus gepubliseer word, die dag waarop dit aldus bestel word; (ii)
- (iii) „eienaar”, met betrekking tot grond of ’n geregistreerde reg in of oor grond, die persoon op wie se naam die grond of reg geregistreer is en, met betrekking tot enige goed, ook—
 - (a) as die eienaar oorlede is, die eksekuteur in sy boedel, of as daar geen eksekuteur is nie, die Meester;
 - (b) as die eienaar se boedel gesekwestreer is, die kurator van sy insolvente boedel, of as daar geen kurator is nie, die Meester;
 - (c) as die goed oorgegaan het op ’n beredderaar of kurator gekies of aangestel ingevolge die Boere-Bystandswet, 1935 (Wet No. 48 van 1935), daardie beredderaar of kurator;
 - (d) as die eienaar ’n maatskappy is wat gelikwideer word, die likwidateur daarvan; en
 - (e) as die eienaar se handelingsbevoegdheid andersins beperk is, sy verteenwoordiger in regte; (iv)
- (iv) „goed”, sowel roerende as onroerende goed; (vi)
- (v) „Hoofwet” die „Spoorwegan en Havens Reglement, Bestuur en Beheer Wet, 1916” (Wet No. 22 van 1916); (v)
- (vi) „onroerende goed” ook ’n serwituut of ander saaklike reg in of oor onroerende goed. (iii)

2. Die verwysing in paragraaf (a) van artikel drie van die Hoofwet na „de toepaslike wet op die onteining of gebruik van grond of water” word vertolk as ’n verwysing na hierdie Wet.

Verwysing na „toepaslike wet” in paragraaf (a) van artikel 3 van Wet 22 van 1916 word vertolk as verwysing na hierdie Wet.

3. (1) Wanneer die Administrasie voornemens is om enige goed te onteien of te neem wat hy deur die Hoofwet of die „Spoorwegan Aanleg Wet, 1922” (Wet No. 30 van 1922), gemagtig word om te onteien of te neem, moet hy ’n kennisgewing op die eienaar en op iedereen aan wie die eiendom verpand is, deur persoonlike aflewering of deur aangetekende pos laat bestel. In so ’n kennisgewing moet die goed wat onteien of geneem word duidelik en volledig omskryf word en moet bedoelde eienaar aangesê word om die bedrag (indien enige) te meld wat hy eis as vergoeding vir daardie goed of vir enige skade wat hy beweer dat hy as gevolg van die onteining gely het.

Prosedure wat in verband met onteining van goed of regte gevolg moet word.

(2) Indien daar nie geredelik vasgestel kan word waar die eienaar of ander in sub-artikel (1) bedoelde persoon hom bevind

of the number of persons having a registered right in respect of the property, the Administration is satisfied that service of any notice in terms of sub-section (1) is not practicable, the Administration shall cause to be published in one ordinary issue of the *Gazette* and once a week during two consecutive weeks in a newspaper circulating in the district in which the property is situated, a notice complying with the said sub-section.

(3) A notice under sub-section (1) shall be signed by the General Manager or the Deputy General Manager of the South African Railways and Harbours or by any officer lawfully acting in the place of either of those officers: Provided that where the property to be taken is movable property which is urgently required in an emergency, the notice may be signed by any officer of the Administration of or above the rank of Assistant Superintendent or equivalent engineering rank, and if no officer of that rank is readily available at the place where the property is, the notice may be signed by any European servant of the Administration whose duty it is to take measures to deal with the emergency.

Ownership in property or right expropriated passes to Administration on date of expropriation, subject to reservations.

4. (1) The ownership in any property described in a notice referred to in section *three* shall vest in the Administration upon the date of expropriation released from all mortgage bonds (if any), but if such property is land it shall remain subject to any registered servitudes or other registered real rights (other than mortgage bonds) in favour of third parties, which attached to it immediately prior to the date of expropriation, unless and until any such servitude or other real right has specifically been expropriated from the owner thereof in accordance with the provisions of section *three*.

(2) Notwithstanding the immediate vesting in the Administration of the ownership in expropriated immovable property in terms of sub-section (1), the Administration shall not be entitled to enter upon, take possession of or use such immovable property before the expiration of a period of sixty days from the date of expropriation: Provided that if the property which is to be or has been expropriated is so urgently required by the Administration that it would be detrimental to the public interest to postpone the entry upon, taking possession or use thereof as aforesaid, it shall be competent for the Administration (except where such property is a building which is actually occupied for residential purposes) to obtain the right forthwith to enter upon, take possession of or use such property—

- (a) by incorporating a notification to that effect in the notice of expropriation; or
- (b) by serving a notification to that effect upon the owner by personal delivery or registered post subsequent to the date of expropriation; or
- (c) where the notice of expropriation is published in the manner provided for in sub-section (2) of section *three*, by incorporating a notification to that effect in such notice or by subsequently publishing such a notification in one issue of a newspaper circulating in the district in which the property is situated.

Access to land for exploratory purposes.

5. For the purpose of ascertaining whether any land or rights which may be required by the Administration for the construction or deviation of any railway or for any other of its activities, is or are suitable for the purposes contemplated, any person specially thereto authorized by the Administration may—

- (a) enter upon the land with the necessary workmen, equipment and vehicles;
- (b) survey and take levels of the land;
- (c) dig or bore into the soil;
- (d) construct and maintain a measuring weir in any river or stream;
- (e) demarcate the boundaries of any land which may be required for the purposes aforesaid;
- (f) do any other act reasonably necessary to achieve the objects of the investigation:

Provided that no such person shall, without the consent of the owner or occupier, enter any dwelling house or enter upon any enclosed yard or garden attached to a dwelling house unless he has given the owner or occupier at least twenty-four hours' notice of his intention to do so.

nie, of indien die Administrasie oortuig is dat weens die aantal persone wat 'n geregistreerde reg ten opsigte van die goed het, die bestelling van 'n kennisgewing volgens voorskrif van sub-artikel (1) nie doenlik is nie, moet die Administrasie 'n kennisgewing wat aan die vereistes van daardie sub-artikel voldoen, laat publiseer in een gewone uitgawe van die *Staatskoerant*, en eenmaal per week gedurende twee agtereenvolgende weke in 'n koerant wat in die distrik waar die goed geleë is, in omloop is.

(3) 'n Kennisgewing ingevolge sub-artikel (1) word deur die Hoofbestuurder of die Adjunk-hoofbestuurder van die Suid-Afrikaanse Spoorweë en Hawens, of deur 'n amptenaar wat wettig in die plek van een van daardie amptenare waarneem, onderteken: Met dien verstande dat waar die goed wat geneem gaan word, roerende goed is wat dringend in 'n noodtoestand benodig word, die kennisgewing deur enige amptenaar van die Administrasie met of bo die rang van Assistent-superintendent of gelykstaande ingenieursrang onderteken kan word, en indien geen amptenaar van daardie rang gereedlik beskikbaar is op die plek waar die goed is nie, die kennisgewing onderteken kan word deur enige blanke dienaar van die Administrasie wie se plig dit is om maatreëls te tref om die noodtoestand die hoof te bied.

4. (1) Die eiendomsreg op enige goed wat in 'n kennisgewing in artikel *drie* bedoel, beskryf word, gaan op die datum van onteiening op die Administrasie oor, bevry van alle verbande (indien daar is), maar as sodanige goed grond is, bly dit onderhewig aan alle geregistreerde serwitute of ander geregistreerde saaklike regte (uitgesonderd verbande) ten gunste van derde partye, waarmee dit onmiddellik voor die datum van onteiening beswaar was, tensy en totdat so 'n serwituut of ander saaklike reg uitdruklik van die eienaar daarvan onteien is ooreenkomstig die bepalinge van artikel *drie*.

Eiendomsreg op onteiene goed of reg gaan op die Administrasie oor op datum van onteiening, onderworpe aan voorbehoude.

(2) Ondanks die omstandigheid dat die eiendomsreg op onteiene onroerende goed ingevolge sub-artikel (1) onmiddellik op hom oorgaan, is die Administrasie nie geregtig om sodanige onroerende goed te betree, in besit te neem of te gebruik nie vóór die verstryking van 'n tydperk van sestig dae vanaf die datum van onteiening: Met dien verstande dat as die goed wat onteien gaan word, of onteien is, so dringend deur die Administrasie benodig word dat dit vir die openbare belang skadelik sou wees om die betreding, inbesitname of gebruik daarvan soos voormeld uit te stel, die Administrasie bevoeg is (behalwe waar sodanige goed 'n gebou is wat werklik vir woondoeleindes gebruik word) om die reg te verkry om onverwyld sodanige goed te betree, in besit te neem of te gebruik, en wel—

- (a) deur 'n kennisgewing te dien effekte by die kennisgewing van onteiening in te lyf; of
- (b) deur ná die datum van onteiening 'n kennisgewing te dien effekte by wyse van persoonlike aflewering of deur aangetekende pos op die eienaar te bestel; of
- (c) waar die kennisgewing van onteiening volgens voorskrif van sub-artikel (2) van artikel *drie* gepubliseer word, deur 'n kennisgewing te dien effekte by eersgenoemde kennisgewing in te lyf, of deur daarna so 'n kennisgewing te publiseer in een uitgawe van 'n koerant wat in die distrik waarin die goed geleë is, in omloop is.

5. Ten einde vas te stel of enige grond of regte wat deur die Administrasie vir die aanleg of verlegging van 'n spoorweg of vir een van sy ander bedrywighede benodig word, vir die voor-genome doel geskik is, kan enigiemand wat bepaaldelik deur die Administrasie daartoe gemagtig is—

Toegang tot grond vir doeleindes van ondersoek.

- (a) die grond betree met die nodige werksmense, toerusting en voertuie;
- (b) die grond opmeet en die hoogtes daarvan bepaal;
- (c) op of in die grond grawe of boor;
- (d) 'n meetdam in enige rivier of stroom bou en in stand hou;
- (e) die grense van enige grond wat vir bogemelde doeleindes benodig mag word, afbaken;
- (f) enige ander handeling verrig wat redelik nodig is om die doel van die ondersoek te verwesenlik.

Met dien verstande dat so iemand nie sonder toestemming van die eienaar of bewoner 'n woonhuis mag binnegaan of 'n afgekapte werf of tuin aan 'n woonhuis verbonde mag betree nie, tensy hy die eienaar of bewoner minstens vier-en-twintig uur kennis gee het van sy voorneme om dit te doen.

Compensation
to be paid
for property
expropriated,
and assessment
thereof.

6. (1) Subject to the succeeding provisions of this section, compensation shall be paid by the Administration for or in respect of any property expropriated or taken by it, or for or in respect of any right or interest in or over land which has been injuriously affected, or any other loss or damage sustained, by reason of such expropriation or taking or the exercise of any other powers conferred by this Act.

(2) Such compensation shall, in relation to any property, not exceed the amount which the property in question would have realized if sold in the open market by a willing seller to a willing buyer on the date of expropriation: Provided that where the property expropriated consists of a portion only of any land held by the owner in one block (whether or not it be held under one title), and the value of the portion expropriated, determined as aforesaid, is less than the difference between the value of the owner's land as it was immediately prior to the expropriation and the value of the remaining piece or pieces of land immediately thereafter (such values being also determined as aforesaid) the compensation payable may be equal to the amount of such difference.

(3) (a) Where the property which has been expropriated was encumbered by a registered mortgage bond immediately prior to its expropriation, the Administration shall not pay out any portion of the compensation money except to such person and on such terms as may have been agreed upon between the owner and the mortgagee and notified by them in writing to the Administration.

(b) If agreement in terms of paragraph (a) cannot be reached between the owner and the mortgagee, the Administration may, on notice to the owner and the mortgagee, apply to the court which would in terms of sub-section (1) of section *eight* have been competent to determine any dispute with regard to the compensation to be paid by the Administration in respect of the property, for directions as to the disposal of the compensation money, and the court may make such order on the application as to it seems proper.

(c) The court shall order the costs incurred by the Administration in connection with such application to be paid by either of the respondents, or by them jointly in such proportions as the court may think proper, and any amount thus becoming payable by the owner or the mortgagee shall form a first charge against any portion of the compensation money which, in terms of the court's order, is to be paid to him.

(4) In the determination of the amount of the compensation payable by the Administration in terms of sub-section (1), the following rules shall apply in so far as they may be relevant to the particular matter being dealt with:

(a) No allowance shall be made on account of the owner having been deprived of the property without his consent;

(b) the special suitability or usefulness of the property for the purpose for which it is required by the Administration shall not be taken into account if it is unlikely that the property would have been purchased for that purpose in the open market;

(c) no allowance shall be made for any indirect damage or for or in respect of anything done with the object of obtaining compensation therefor;

(d) account shall be taken of—

(i) the cost of any works which the Administration may have constructed or undertaken to construct for the benefit of the person claiming compensation with a view to mitigating his damage;

(ii) any benefit which will enure to the person claiming compensation, in consequence of the expropriation of the property or its use for the purpose for which it was expropriated by the Administration.

(5) No compensation shall be payable in respect of the expropriation of any land if in terms of any condition contained in the deed or grant under which the land is held, the right to resume the land or any portion thereof for railway purposes without payment of compensation was reserved to the Government.

6. (1) Behoudens die hieropvolgende bepalings van hierdie artikel word vergoeding deur die Administrasie betaal vir of ten opsigte van enige goed wat deur hom onteien of geneem is, of vir of ten opsigte van enige reg of belang in of oor grond wat nadelig aangetas is, of enige ander verlies of skade wat gelyk is, ten gevolge van sodanige onteiening of ontneming of die uitoefening van enige ander bevoegdhede wat deur hierdie Wet verleen word.

Vergoeding word betaal vir onteiene goed, en vasstelling daarvan.

(2) Sodanige vergoeding mag nie, met betrekking tot enige goed, meer bedra dan die som wat vir die betrokke goed betaal sou geword het as dit op die datum van onteiening op die ope mark deur 'n gewillige verkoper aan 'n gewillige koper verkoop was nie: Met dien verstande dat waar die onteiene goed bestaan uit slegs 'n gedeelte van grond wat deur die eienaar in een blok besit word (ongegag of dit kragtens een titelbewys besit word al dan nie) en die waarde van die onteiene gedeelte, soos voormeld vasgestel, minder is as die verskil tussen die waarde van die eienaar se grond soos dit onmiddellik voor die onteiening was en die waarde van die oorblywende stuk of stukke grond onmiddellik daarna (sodanige waardes ook soos voormeld vasgestel te word) die vergoeding wat betaalbaar is gelyk mag wees aan die bedrag van sodanige verskil.

(3) (a) Wanneer die goed wat onteien is, onmiddellik vóór die onteiening met 'n geregistreerde verband beswaar was, mag die Administrasie geen gedeelte van die vergoedingsgeld uitbetaal nie behalwe aan die persoon en op die voorwaardes waarop tussen die eienaar en die verbandhouer ooreengekom en deur hulle skriftelik aan die Administrasie meegedeel is.

(b) Indien die eienaar en die verbandhouer nie ingevolge paragraaf (a) met mekaar kan ooreenkom nie, kan die Administrasie, na kennisgewing aan die eienaar en die verbandhouer, aansoek doen by die hof wat ingevolge sub-artikel (1) van artikel *agt* bevoeg sou gewees het om 'n geskil met betrekking tot die vergoeding deur die Administrasie ten opsigte van die eiendom betaalbaar, te besleg, om 'n opdrag omtrent hoe daar oor die vergoedingsgeld beskik moet word, en die hof kan aan die hand van die aansoek sodanige bevel uitreik as wat hy goed dink.

(c) Die hof moet beveel dat die koste wat deur die Administrasie in verband met die aansoek beloop is, betaal word deur die een of die ander van die respondente, of deur hulle gesamentlik in sulke gedeeltes as wat die hof goed dink, en enige bedrag wat aldus deur die eienaar of die verbandhouer betaalbaar word, maak 'n preferente vordering uit teen enige gedeelte van die vergoedingsgeld wat ingevolge die bevel van die hof aan hom betaalbaar moet word.

(4) By die vasstelling van die bedrag van die vergoeding wat ingevolge sub-artikel (1) deur die Administrasie betaalbaar is, is die volgende voorskrifte van toepassing vir sover hulle ter sake is by die bepaalde aangeleentheid waarmee gehandel word:

(a) Geen bedrag word toegelaat op grond daarvan dat die goed aan die eienaar sonder sy toestemming ontnem is nie;

(b) die besondere geskiktheid of bruikbaarheid van die goed vir die doel waarvoor die Administrasie dit nodig het, word buite rekening gelaat as dit onwaarskynlik is dat die goed vir daardie doel op die ope mark gekoop sou geword het;

(c) geen bedrag word toegelaat vir indirekte skade of vir of ten opsigte van enigiets wat gedoen is met die oogmerk om vergoeding daarvoor te verkry nie;

(d) rekening word gehou met—

(i) die koste van enige werke wat die Administrasie gebou het of onderneem het om te bou ten bate van die persoon wat vergoeding eis, met die oog op vermindering van sy skade;

(ii) enige voordeel wat deur die persoon wat vergoeding eis behaal sal word as gevolg van die onteiening van die goed of die gebruik daarvan vir die doel waarvoor dit deur die Administrasie onteien is.

(5) Geen vergoeding is betaalbaar ten opsigte van die onteiening van enige grond nie, indien die reg om die grond of 'n gedeelte daarvan vir spoorwegdoeleindes sonder vergoeding terug te neem, ten gunste van die Regering voorbehou is ooreenkomstig 'n voorwaarde vervat in die akte of grondbrief uit kragte waarvan die grond besit word.

Part only of house or building not to be taken, and provision with regard to useless severed areas.

7. (1) No person shall be compelled by the Administration to part with only a portion of any house or other building belonging to him if he is able and willing to part with the whole house or building, unless in the opinion of the Court assessing the compensation such portion can be severed from the whole without material detriment thereto.

(2) If, by reason of the construction of any line of railway or other works across or on any land, that land is or will be so cut through and divided as to leave, either on both sides or on one side of the railway or other works, a piece of land smaller in extent than one acre, the Administration shall be obliged, if thereto required by the owner of such piece or pieces of land, to acquire such piece or pieces along with the other land required.

Dispute as to compensation to be determined by Court.

8. (1) Should any dispute arise as to the amount of the compensation to be paid by the Administration under section six, such dispute shall be determined by action to be instituted by the person claiming compensation, if the amount claimed be less than one thousand pounds, in the magistrate's court for the district in which the property in question is situated, or if the amount claimed be one thousand pounds or more, in the Division of the Supreme Court within whose area of jurisdiction the property in question is situated.

(2) For the purpose of the application of sub-section (1) of section sixty-four of the principal Act, the cause of any legal proceedings—

- (a) in which the validity of the expropriation of any property by the Administration is in question (including any such proceedings in which the Administration is alleged to be in unlawful occupation of any property which it purports to have expropriated); or
- (b) for determining the amount of the compensation payable to any person in respect of the expropriation of any property or rights,

shall be deemed to have arisen on the date of expropriation.

Orders as to costs.

9. (1) Where the compensation awarded by the Court—

- (a) is equal to or exceeds the amount last claimed by the plaintiff before the commencement of proceedings, costs shall be awarded against the Administration;
- (b) is equal to or less than the amount last offered by the Administration before the commencement of proceedings, costs shall be awarded against the plaintiff;
- (c) is less than the amount last claimed by the plaintiff but exceeds the amount last offered by the Administration, no order as to costs shall be made.

(2) The liability of the plaintiff for costs and taxation fees shall be a first charge against the money to be paid to him pursuant to the judgment of the Court, and that money shall be applied as far as it may be required towards the payment of those costs and fees.

Payment of compensation for property expropriated prior to date of commencement of this Act.

10. Whenever any property has been expropriated or taken by the Administration prior to the date of commencement of this Act, and the amount payable as compensation in respect thereof or in respect of the injurious affection of any right resulting therefrom, has not been finally agreed upon or determined at that date, the Administration may, if it would be to the advantage of the person claiming compensation to do so, in its discretion deal with the claim as it would have been dealt with had this Act been in force on the date of expropriation.

Noting of expropriation of land on title deeds, and transfer of ownership of expropriated land.

11. (1) (a) Immediately after any land has been expropriated in terms of this Act the Administration shall lodge with the Registrar in charge of the appropriate deeds registry a certified copy of the notice of expropriation and two copies of the relevant expropriation plan of the land in question.

(b) The Registrar shall thereupon cause a note of the expropriation to be made in his register against the land affected, and an endorsement on the office copy of the title deed, and if at any time the original of the title deed is lodged in his registry for any purpose, he shall cause a similar endorsement to be made thereon and a copy of the expropriation plan shall be annexed thereto.

(c) Except when the entire extent of a piece of land recognized as a separate entity in a deeds registry has been

7. (1) Niemand mag deur die Administrasie verplig word om afstand te doen van slegs 'n gedeelte van 'n huis of ander gebou wat aan hom behoort nie, indien hy in staat en bereid is om van die hele huis of gebou afstand te doen, tensy sodanige gedeelte volgens oordeel van die Hof wat die vergoeding bepaal, van die geheel geskei kan word sonder om aanmerklike skade daaraan te veroorsaak.

Slegs gedeelte van huis of gebou mag nie geneem word nie, en voorsiening in verband met nuttelose afgesnyde stukke grond.

(2) Indien uit hoofde van die bou van 'n spoorweg of ander werke oor of op grond, daardie grond so deursny en verdeel is of sal word dat daar aan weerskante of aan een kant van die spoorweg of ander werke 'n stuk grond minder as een akker groot gelaat is of sal word, is die Administrasie verplig, indien die eienaar van sodanige stuk of stukke grond dit van hom vereis, om daardie stuk of stukke grond saam met die ander grond wat benodig word, te verkry.

8. (1) Indien daar 'n geskil ontstaan oor die bedrag van die vergoeding wat deur die Administrasie ingevolge artikel ses betaal moet word, word sodanige geskil besleg in 'n regsding wat deur die persoon wat vergoeding eis ingestel moet word in die magistratshof van die distrik waarin die betrokke goed geleë is as die bedrag wat geëis word minder is dan eenduisend pond, of in die afdeling van die Hooggeregshof binne wie se regsgebied die betrokke goed geleë is, as die bedrag wat geëis word eenduisend pond of meer bedra.

Geskil oor vergoeding word deur die Hof besleg.

(2) By die toepassing van sub-artikel (1) van artikel vier-estig van die Hoofwet, word dit geag dat die oorsaak van 'n regsding—

(a) waarin die geldigheid van die onteining van goed deur die Administrasie in geskil is (met inbegrip van 'n sodanige regsding waarin daar beweer word dat die Administrasie onwettig in besit is van goed wat hy heet te onteien het); of

(b) vir die vasstelling van die bedrag van die vergoeding wat aan een of ander persoon betaalbaar is ten opsigte van die onteining van enige goed of regte,

op die datum van onteining ontstaan het.

9. (1) Waar die vergoeding wat deur die Hof toegeken word—

Hofbevele insake koste.

(a) gelyk is aan of meer is dan die bedrag wat laas geëis is deur die eiser voor die aanvang van die geding, word koste teen die Administrasie toegewys;

(b) gelyk is aan of minder is dan die bedrag wat laas aangebied is deur die Administrasie voor die aanvang van die geding, word koste teen die eiser toegewys;

(c) minder is dan die bedrag wat laas geëis is deur die eiser maar meer is dan die bedrag wat laas aangebied is deur die Administrasie, word geen bevel betreffende koste uitgevaardig nie.

(2) Die aanspreeklikheid van die eiser vir koste en taksasiegelde is 'n preferente vordering teen die geld wat ingevolge die hofbevel aan hom betaal moet word, en daardie geld word vir sover nodig ter vereffening van bedoelde koste en gelde aangewend.

10. Wanneer enige goed vóór die datum van inwerkingtreding van hierdie Wet deur die Administrasie onteien of geneem is, en die bedrag wat as vergoeding ten opsigte daarvan of ten opsigte van die nadelige aantasting van 'n reg as gevolg daarvan betaalbaar is, op daardie datum nog nie finaal by wyse van ooreenkoms of andersins bepaal is nie, kan die Administrasie, indien dit die persoon wat vergoeding eis tot voordeel sou strek, na goëddunke die eis behandel soos dit behandel sou gewees het indien hierdie Wet op die datum van onteining van krag was.

Betaling van vergoeding vir goed wat voor inwerkingtreding van hierdie Wet onteien is.

11. (1) (a) Onmiddellik nadat grond ingevolge hierdie Wet onteien is, moet die Administrasie 'n gewaarmerkte afskrif van die onteieningskennisgewing en twee afskrifte van die betrokke onteieningskaart van die betrokke grond, by die Registrateur in beheer van die betrokke registrasiekantoor van aktes indien.

Aantekening van onteining van grond op titelbewyse, en oordrag van eiendomsreg op onteiene grond.

(b) Die Registrateur laat vervolgens 'n aantekening van die onteining teen die betrokke grond in sy register aanbring, asook 'n endossement op die kantoorafskrif van die titelbewys en, indien die oorspronklike van die titelbewys te eniger tyd vir enige doel by sy registrasiekantoor ingedien word, laat hy 'n eendersluidende endossement daarop aanbring en word 'n afskrif van die onteieningskaart daaraan geheg.

(c) Behalwe wanneer 'n stuk grond wat as 'n afsonderlike eenheid in 'n registrasiekantoor van aktes erken word,

expropriated, the existence of such an endorsement shall not debar the registered owner from transferring or otherwise dealing with the land on the title deed whereof the endorsement appears.

(2) No formal transfer or registration in any deeds registry shall be required in order to vest in the Administration the ownership of any land expropriated by it.

(3) Whenever any land of which the Administration has acquired the ownership by expropriation has not been registered in its name in any deeds registry, and the Administration has entered into an agreement in writing with the person in whose name such land is registered whereby it disposes of such land to the said person, the effect of such agreement shall be to divest the Administration of its ownership of such land and to vest the ownership in the said person without any further registration in any deeds registry: Provided that where such agreement relates to any land which was expropriated after the date of commencement of this Act, the Administration shall lodge with the Registrar in charge of the deeds registry concerned, a copy of the said agreement together with an application for the cancellation of any notings in his registers and endorsements on the relevant title deeds that were made in terms of paragraph (b) of sub-section (1), and the ownership in such land shall not vest in the said person until such cancellation has been registered.

Interpretation of
existing Railway
Construction
Acts.

12. Where, by any Act passed before the commencement of this Act, authorizing the construction of any line of railway by the Government, the provisions of any other law were made applicable with respect to the expropriation or use, by the Government, of land or rights in or over land for the purpose of such line of railway, the reference in such Act to such other provisions shall be construed as a reference to the relevant provisions of the principal Act, read in conjunction with this Act: Provided that in the case of the Railways Construction Act, 1922 (Act No. 30 of 1922), the reference in section *ten* thereof to "any law in force in the province in which the land is situate" shall be construed as a reference to this Act only.

Powers of
Administration
in connection
with construction,
etc., of
railways.

13. For the purpose of constructing, maintaining, altering or repairing any railway, whether authorized before or after the commencement of this Act, and any works incidental thereto, the Administration may—

- (a) construct or make in, upon, across, under or over any land or any street, road, railway or tramway, or any river, canal, stream or other waters, or any pipe, sewer or underground or overhead cable or wire, such arches, tunnels, culverts, embankments, aqueducts, bridges, roads, lines of railway, passages, conduits, drains, piers, cuttings and fences as it may think proper;
- (b) alter the course of any river, stream or watercourse for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter either temporarily or permanently the course of any river, stream or watercourse, or any road, street or way, or raise or sink the level thereof, in order the more conveniently to carry them over, under or along the railway, as the Administration may think proper;
- (c) make, alter and repair drains and conduits into, through or under any land for the purpose of conveying water from or to the railway;
- (d) erect, construct, alter, repair or demolish such buildings and structures, and such machinery, plant, apparatus and other works and conveniences as it may think proper;
- (e) take, carry away and use any earth, stone, timber, gravel or other material from or out of any land adjoining or contiguous to such railway or other works;
- (f) sink wells and construct dams and other works necessary for providing a water supply;
- (g) do all other acts necessary or desirable for achieving that purpose.

Deviations from
existing routes
of lines of
railway.

14. (1) The Administration may make and maintain any deviation from the existing route of any line of railway, whether authorized before or after the commencement of this Act, and for that purpose may remove all existing works and erect

in sy geheel onteien is, verhinder die bestaan van so 'n endossement nie die geregisteerde eienaar om die grond op die titelbewys waarvan die endossement verskyn, oor te dra of anders daarmee te handel nie.

(2) Geen formele oordrag of registrasie in 'n registrasiekantoor van aktes word vereis ten einde die eiendomsreg op grond wat deur hom onteien is, op die Administrasie te laat oorgaan nie.

(3) Wanneer grond waarvan die Administrasie die eiendomsreg deur onteiening verkry het, nie op sy naam in 'n registrasiekantoor van aktes geregistreer is nie, en die Administrasie 'n skriftelike ooreenkoms aangegaan het met die persoon op wie se naam sodanige grond geregistreer is, waarvolgens hy sodanige grond aan daardie persoon van die hand sit, het so 'n ooreenkoms die uitwerking dat die Administrasie van sy eiendomsreg op die grond ontdoen word en dat die eiendomsreg sonder verdere registrasie in 'n registrasiekantoor van aktes op daardie persoon oorgaan: Met dien verstande dat waar so 'n ooreenkoms betrekking het op grond wat na die datum van inwerkingtreding van hierdie Wet onteien is, die Administrasie by die Registrateur in beheer van die betrokke registrasiekantoor van aktes 'n afskrif van bedoelde ooreenkoms moet indien, tesame met 'n aansoek vir die kansellering van alle noterings in sy registers en endossemente op die betrokke titelbewyse wat ingevolge paragraaf (b) van sub-artikel (1) aangebring is, en gaan die eiendomsreg op sodanige grond nie op daardie persoon oor nie totdat sodanige kansellering geregistreer is.

12. Wanneer 'n Wet wat voor die inwerkingtreding van hierdie Wet aangeneem is en waardeur die aanleg van 'n spoorlyn deur die Regering gemagtig is, die bepalings van 'n ander wet van toepassing gemaak het met betrekking tot die onteiening of gebruik, deur die Regering, van grond of regte op of oor grond vir die doeleindes van sodanige spoorlyn, word die verwysing in so 'n Wet na sodanige ander bepalings, vertolk as 'n verwysing na die betrokke bepalings van die Hoofwet, saamgelees met hierdie Wet: Met dien verstande dat in die geval van die „Spoorwegen Aanleg Wet, 1922" (Wet No. 30 van 1922), die verwysing in artikel *tien* daarvan na „een of andere wet van kracht in de provincie waarin de grond gelegen is", as 'n verwysing na hierdie Wet alleen, vertolk word.

Vertolking van bestaande Spoorwegaanlegwette.

13. Vir die doel van die aanleg, instandhouding, verandering of herstel van 'n spoorweg (hetsy dit voor of na die inwerkingtreding van hierdie Wet gemagtig is) en alle werke wat daarmee in verband staan, kan die Administrasie—

Bevoegdhede van Administrasie in verband met aanleg, ens., van spoorweë.

- (a) sulke gewelwe, tunnels, duikslote, walle, waterleidings, brugge, paaie, spoorlyne, deurgange, buise, afvoerslote, pilare, deurgrawings en heinings as wat nodig geag word, in, op, oor, onder of bo-oor enige grond of enige straat, pad, treinspoor of tremspoor, of enige rivier, kanaal, stroom of ander waters, of enige pyp, riool of onder- of bogrondse kabel of draad, bou of maak;
- (b) volgens goeddunke die loop van enige rivier, stroom of waterloop verander ten einde tunnels, brugge, deurgange of ander werke oor en onder hulle te bou en in stand te hou, en die loop van 'n rivier, stroom, of waterleiding, of enige pad, straat of weg of tydelik of permanent verlê of verander, of die vlak daarvan verhoog of verlaag, ten einde hulle meer gerieflik oor, onder of langs die spoorweg te laat loop;
- (c) ten einde water vanaf of na die spoorweg te lei, af- of toevoerslote en buise in, deur of onder enige grond maak, verander en herstel;
- (d) sulke geboue en bouwerke, en sulke masjinerie, toerusting, apparaat en ander werke en geriewe as wat nodig geag word, oprig, bou, verander, herstel of afbreek;
- (e) grond, klip, hout, gruis of ander materiaal op of uit enige grond wat aan sodanige spoorweg of ander werke grens of in die nabyheid daarvan geleë is, neem, verwyder en gebruik;
- (f) putte grawe en damme en ander werke wat vir die daarstelling van 'n watervoorraad nodig is, bou;
- (g) alle ander handelings verrig wat vir die bereiking van daardie doel nodig of wenslik is.

14. (1) Die Administrasie kan 'n verlegging van die bestaande roete van enige spoorlyn, hetsy vóór of ná die inwerkingtreding van hierdie Wet gemagtig, aanbring en in stand hou, en vir daardie doel kan hy alle bestaande werke verwyder en sulke

Verleggings van bestaande roetes van spoorlyne.

or construct such new works as may be required for the carrying out of such deviation and the closing of the deviated portion of the line.

(2) For the purpose of this section "Works" includes rails, stations, bridges, lines of communication and other appurtenances.

Penalties.

15. Any person who wilfully obstructs any person doing any of the acts authorized by section *five* or *thirteen*, or who wilfully fills up, destroys, damages or displaces any excavation, trench, beacon, mark or weir made or erected under section *five*, shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds or in default of payment to imprisonment for a period not exceeding one month, or to both such fine and such imprisonment.

Amendment of paragraph (a) of section 3 of Act 22 of 1916, as amended by section 2 of Act 21 of 1931, section 2 of Act 36 of 1939, section 1 of Act 16 of 1944 and section 5 of Act 63 of 1951.

16. Section *three* of the principal Act is hereby amended by the deletion of the second and third provisos to paragraph (a) thereof.

Application of this Act to South-West Africa.

17. This Act shall apply to the Territory of South-West Africa, including for all purposes that part of the said Territory known as the "Rehoboth Gebiet" and defined in the First Schedule to Proclamation No. 28 of 1923 of the said Territory.

Repeal of laws.

18. The laws mentioned in the Schedule to this Act are hereby repealed.

Short title and date of commencement.

19. This Act shall be called the Railway Expropriation Act, 1955, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

Schedule.

Province or Territory.	No. and Year.	Title or Subject-matter.
Transvaal	Ordinance No. 20 of 1903.	Railway Expropriation of Lands Ordinance, 1903.
Natal	Act No. 10 of 1899	To empower the Governor to acquire land for open Railways, and to take and lead water required for Railway purposes.
"	Act No. 27 of 1904	Railway Improvement Act, 1904.
Orange Free State	Ordinance No. 30 of 1903.	Railways Construction (Special Powers) Ordinance, 1903.
"	Ordinance No. 46 of 1903.	Railway Expropriation of Lands Ordinance, 1903.
South-West Africa	Proclamation No. 37 of 1922.	Lands Expropriation Proclamation, 1922.

nuwe werke oprig of aanlê, as wat nodig mag wees vir die bou van die verlegging en die sluiting van die verlegde gedeelte van die lyn.

(2) Vir die doeleindes van hierdie artikel beteken „werke” ook spoorstawe, stasies, brugge, verbindingslyne en ander toebehore.

15. Iedereen wat opsetlik iemand hinder by die verrigting van een of ander handeling wat deur artikel vyf of dertien gemagtig word, of wat enige uitgraving, sloot, baken, merk of dam kragtens artikel vyf gemaak of opgerig, opsetlik opvul, vernietig, beskadig of verskuif, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyf-en-twintig pond, of by wanbetaling met gevangenisstraf vir 'n tydperk van hoogstens een maand, of met beide sodanige boete en sodanige gevangenisstraf.

Strafbepalings.

16. Artikel drie van die Hoofwet word hierby gewysig deur die tweede en derde voorbehoudsbepalings by paragraaf (a) daarvan te skrap.

Wysiging van paragraaf (a) van artikel 3 van Wet 22 van 1916, soos gewysig deur artikel 2 van Wet 21 van 1931, artikel 2 van Wet 36 van 1939, artikel 1 van Wet 16 van 1944 en artikel 5 van Wet 63 van 1951.

17. Hierdie Wet is van toepassing op die Gebied Suidwes-Afrika, met inbegrip, vir alle doeleindes, van daardie gedeelte van bedoelde Gebied wat as die „Rehoboth Gebiet” bekend staan en wat omskryf word in die Eerste Bylae by Proklamasie No. 28 van 1923 van bedoelde Gebied.

Toepassing van hierdie Wet op Suidwes-Afrika.

18. Die wette wat in die Bylae by hierdie Wet opgenoem word, word hierby herroep.

Herroeping van wette.

19. Hierdie Wet heet die Spoorwegonteieningswet, 1955, en tree in werking op 'n datum deur die Goewerneur-generaal by proklamasie in die Staatskoerant bepaal te word.

Kort titel en datum van inwerking-treding.

Bylae.

Provinsie of Gebied.	No. en jaartal.	Titel of onderwerp.
Transvaal	Ordonnansie No. 20 van 1903.	„Railway Expropriation of Lands Ordinance”, 1903.
Natal	Wet No. 10 van 1899	„To empower the Governor to acquire land for open Railways, and to take and lead water required for Railway purposes.”
„	Wet No. 27 van 1904	„Railway Improvement Act”, 1904.
Oranje-Vrystaat ..	Ordonnansie No. 30 van 1903.	„Railways Construction (Special Powers) Ordinance”, 1903.
„	Ordonnansie No. 46 van 1903.	„Railway Expropriation of Lands Ordinance”, 1903.
Suidwes-Afrika ..	Proklamasie No. 37 van 1922.	„Landonteigening Proklamatie”, 1922.

No. 43, 1955.]

ACT

To fix the rates of normal and super income tax in respect of the year of assessment ending the thirtieth day of June, 1955; to amend the law relating to income tax; to provide for the taxation of undistributed profits and of donations, and to discharge persons from liability in respect of unpaid loan portions of normal and super tax unassessed as at the first day of July, 1955.

(English text signed by the Governor-General.)
(Assented to 13th June, 1955.)

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

Rates of normal
and super tax.

1. (1) In terms of sub-section (2) of section *five* and sub-section (2) of section *twenty-three* respectively of the Income Tax Act, 1941 (Act No. 31 of 1941), hereinafter referred to as the principal Act, the rates of normal and super tax to be levied for the year of assessment ending the thirtieth day of June, 1955, shall be as follows:

(A) In so far as normal tax is concerned—

(a) in respect of the taxable income (excluding so much as is derived from mining operations carried on in the Union by any company but including so much as the Commissioner determines to be attributable to the inclusion in the gross income derived from mining in the Union for gold of any amount referred to in paragraph (f) of the definition of "gross income" in section *seven* of the principal Act)—

(i) in the case of all companies, for each pound of the taxable income, five shillings;

(ii) in the case of persons other than companies, for each pound of the taxable income not exceeding nine thousand three hundred pounds, eighteen pence increased by one one-thousandth of a penny for each pound of such taxable income in excess of one pound, and for each pound of the taxable income over and above nine thousand three hundred pounds, thirty-seven pence: Provided that for a married person the rate for each pound of the taxable income not exceeding nine thousand three hundred pounds shall be fifteen pence increased by one one-thousandth of a penny for each pound of such taxable income in excess of one pound, and for each pound of the taxable income over and above nine thousand three hundred pounds, thirty-four pence: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item (including the foregoing proviso thereto), a sum equal to fifteen per centum of the net amount arrived at after deducting the rebates provided for in section *thirteen* of the principal Act from the amount of the tax so calculated;

(b) in respect of so much of the taxable income as has been derived by any company from mining in the Union for gold (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (f) of the definition of "gross income"

No. 43, 1955.]

WET

Om die skale van normale en super-inkomstebelasting vas te stel vir die jaar van aanslag wat op die dertigste dag van Junie 1955 eindig; om die wetsbepalings betreffende inkomstebelasting te wysig; om voorsiening te maak vir die belasting van onuitgekeerde winste en van geskenke en om persone te onthef van verpligting ten opsigte van onbetaalde leningsgedeeltes van normale en superbelasting wat op die eerste dag van Julie 1955 nog nie aangeslaan is nie.

(Engelse teks deur die Goewerneur-generaal geteken.)
(Goedgekeur op 13 Junie 1955.)

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

1. (1) Ooreenkomstig onderskeidelik sub-artikel (2) van artikel vyf en sub-artikel (2) van artikel *drie-en-twintig* van die Inkomstebelastingwet, 1941 (Wet No. 31 van 1941), hieronder die Hoofwet genoem, is die skale van normale en superbelasting wat gehef word oor die jaar van aanslag wat eindig op die dertigste dag van Junie 1955, as volg:

(A) Wat normale belasting betref—

(a) ten opsigte van die belasbare inkomste (met uitsondering van soveel as wat uit mynwerksaamhede wat in die Unie deur 'n maatskappy voortgesit word, verkry is, maar met inbegrip van soveel as wat volgens vasstelling van die Kommissaris toe te skryf is aan die inrekening by bruto-inkomste verkry uit die myn van goud in die Unie van 'n in paragraaf (f) van die omskrywing van „bruto-inkomste” in artikel *sewe* van die Hoofwet bedoelde bedrag)—

(i) in die geval van alle maatskappye, vyf sjielings op elke pond van die belasbare inkomste;

(ii) in die geval van ander persone as maatskappye, agtien pennies op elke pond van die belasbare inkomste wat nie meer as negeduisend driehonderd pond bedra nie, verhoog met een-duisendste van 'n pennie vir elke pond van bedoelde belasbare inkomste wat een pond te bowe gaan, en sewe-entertig pennies op elke pond van die belasbare inkomste vir sover dit meer as negeduisend driehonderd pond bedra: Met dien verstande dat die skaal vir 'n getroude persoon op elke pond van die belasbare inkomste wat nie meer as negeduisend driehonderd pond bedra nie vyftien pennies is, verhoog met een-duisendste van 'n pennie vir elke pond van bedoelde belasbare inkomste wat een pond te bowe gaan, en vier-entertig pennies op elke pond van die belasbare inkomste vir sover dit meer as negeduisend driehonderd pond bedra: Met dien verstande voorts dat daar by die bedrag van belasting volgens die voorgaande bepaling van hierdie item (met inbegrip van die voorgaande voorbehoudsbepaling daarby) bereken, 'n bedrag gevoeg word gelyk aan vyftien persent van die netto-bedrag wat verkry word nadat die kortings, waarvoor in artikel *dertien* van die Hoofwet voorsiening gemaak word, afgetrek is van die bedrag van belasting aldus bereken;

(b) ten opsigte van soveel van die belasbare inkomste as wat deur 'n maatskappy uit die myn van goud in die Unie verkry is (maar met uitsluiting van soveel van die belasbare inkomste as wat volgens vasstelling van die Kommissaris toe te skryf is aan die inrekening by bruto-inkomste van 'n in paragraaf (f) van die omskrywing van „bruto-

Skale van
normale en
superbelasting.

in section *seven* of the principal Act), on each pound of the taxable income a percentage determined in accordance with the formula:

$$y = 63 - \frac{378}{x}$$

in which formula (and in the formulae set out in the proviso hereto) y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed twenty thousand pounds, the rate of tax shall not exceed a percentage determined in accordance with the formula:

$$y = 20 \left(1 - \frac{6}{x} \right)$$

and if such taxable income exceeds twenty thousand pounds, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by adding to the number 20

in the formula $y = 20 \left(1 - \frac{6}{x} \right)$ one for each com-

pleted amount of twelve hundred and fifty pounds by which the said taxable income exceeds twenty thousand pounds;

- (c) in respect of so much of the taxable income as has been derived by any company from mining in the Union for diamonds, for each pound of the taxable income, nine shillings;
 - (d) in respect of so much of the taxable income as has been derived by any company from mining operations (other than mining for gold or diamonds) carried on by such company in the Union, for each pound of the taxable income, six shillings;
 - (e) in respect of so much of the taxable income of any company, the sole or principal business of which in the Union is mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, as the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (f) of the definition of "gross income" in section *seven* of the principal Act, for each pound so determined to be attributable to the inclusion of any such amount, the amount by which the average rate of normal tax as determined under paragraph (b) of sub-section (2) exceeds the rate prescribed in item (i) of subparagraph (a).
- (B) In so far as super tax is concerned, for each pound of the income subject to super tax not exceeding nine thousand three hundred pounds, two shillings increased by one four-hundredth of a penny for each pound of such income subject to super tax in excess of one pound, and for each pound of the income subject to super tax over and above nine thousand three hundred pounds, five shillings and ten pence: Provided that there shall be added to the amount of the tax calculated in accordance with the preceding provisions of this paragraph a sum equal to fifteen per centum of the net amount arrived at after deducting the rebates provided for in section *twenty-nine* of the principal Act from the amount of the tax so calculated.
- (2) (a) For the purposes of paragraph (A) of sub-section (1) income derived from mining in the Union for gold shall include any income derived from silver, osmium, uranium, pyrites or other minerals which may

inkomste" in artikel *sewe* van die Hoofwet bedoelde bedrag), op elke pond van die belasbare inkomste, 'n persentasie vasgestel ooreenkomstig die formule:

$$y = 63 - \frac{378}{x}$$

in welke formule (asook in die formules in die voorbehoudsbepaling hierby uiteengesit) y die bedoelde persentasie voorstel en x die verhouding, as 'n persentasie uitgedruk, waarin die aldus verkreeë belasbare inkomste (met genoemde uitsluiting) staan tot die aldus verkreeë inkomste (met genoemde uitsluiting): Met dien verstande dat indien die aldus verkreeë belasbare inkomste (met genoemde uitsluiting) nie meer as twintigduisend pond bedra nie, die belastingskaal nie hoër is nie as 'n persentasie vasgestel ooreenkomstig die formule:

$$y = 20 \left(1 - \frac{6}{x}\right)$$

en indien bedoelde belasbare inkomste meer as twintigduisend pond bedra, die belastingskaal nie hoër is nie as 'n persentasie vasgestel ooreenkomstig 'n formule wat verkry word deur die getal

20 in die formule $y = 20 \left(1 - \frac{6}{x}\right)$ te verhoog met

een vir elke volle bedrag van twaalfhonderd-en-veftig pond wat genoemde belasbare inkomste meer as twintigduisend pond bedra;

(c) ten opsigte van soveel van die belasbare inkomste as wat deur 'n maatskappy uit die myn van diamante in die Unie verkry is, nege sjielings op elke pond van die belasbare inkomste;

(d) ten opsigte van soveel van die belasbare inkomste as wat deur 'n maatskappy verkry is uit ander mynwerksaamhede as die myn van goud en diamante wat deur sodanige maatskappy in die Unie voortgesit word, ses sjielings op elke pond van die belasbare inkomste;

(e) ten opsigte van soveel van die belasbare inkomste van 'n maatskappy, wie se enigste of vernaamste besigheid in die Unie die myn van goud is en die vasstelling van die belasbare inkomste waarvan vir die tydperk van aanslag nie op 'n vasgestelde verlies uitloop nie, as wat volgens vasstelling van die Kommissaris toe te skryf is aan die inrekening by sy bruto-inkomste van 'n in paragraaf (f) van die omskrywing van „bruto-inkomste” in artikel *sewe* van die Hoofwet bedoelde bedrag, op elke pond wat volgens die vasstelling toe te skryf is aan die inrekening van so 'n bedrag, die bedrag waarby die gemiddelde skaal van normale belasting vasgestel ooreenkomstig paragraaf (b) van sub-artikel (2) meer is as die skaal wat in item (i) van sub-paragraaf (a) voorgeskryf word.

(B) Wat superbelasting betref, op elke pond van die aan superbelasting onderhewige inkomste wat nie meer as negeduisend driehonderd pond bedra nie, twee sjielings verhoog met een-vierhonderdste van 'n pennie vir elke pond van sodanige aan superbelasting onderhewige inkomste wat een pond te bowe gaan, en vyf sjielings en tien pennies op elke pond van die aan superbelasting onderhewige inkomste vir sover dit meer as negeduisend driehonderd pond bedra: Met dien verstande dat daar by die bedrag van die belasting volgens die voorgaande bepaling van hierdie paragraaf bereken, 'n bedrag gevoeg word gelyk aan vyftien persent van die netto-bedrag wat verkry word nadat die kortings, waarvoor in artikel *nege-en-twintig* van die Hoofwet voorsiening gemaak word, afgetrek is van die bedrag van belasting aldus bereken.

(2) (a) Vir die doeleindes van paragraaf (A) van sub-artikel (1) sluit inkomste uit die myn van goud in die Unie verkry ook inkomste in wat verkry is van silwer, osmiridium, uraan, piriet of ander minerale wat in die

be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(b) For the purposes of sub-paragraph (e) of paragraph (A) of sub-section (1), the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said sub-paragraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of the pounds contained in the said aggregate taxable income.

(c) The tax determined in accordance with any one of the sub-paragraphs (a) to (e) of paragraph (A) of sub-section (1), shall be payable in addition to the tax determined in accordance with any other of the said sub-paragraphs.

(3) For the purposes of assessing any tax imposed by a provincial council in the exercise of its powers under the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945), on the incomes of persons and companies, the amounts of normal tax and super tax payable under the Income Tax Acts of the Union by any taxpayer in respect of the year of assessment ending the thirtieth day of June, 1955, shall be deemed to be equal to the respective amounts which would have been payable as normal tax and super tax if the provisions relating to the addition referred to in the second proviso to item (ii) of sub-paragraph (a) of paragraph (A) of sub-section (1) and in the proviso to paragraph (B) of the said sub-section had not been enacted.

Amendment of section 1 of Act 31 of 1941, as amended by section 2 of Act 39 of 1945, section 3 of Act 55 of 1946, section 2 of Act 40 of 1948, section 2 of Act 45 of 1949 and section 2 of Act 56 of 1952.

2. Section *one* of the principal Act is hereby amended—

(a) by the addition at the end of the definition of "benefit fund" of the following proviso:

"Provided that if any person is a member of any fund or funds (excluding any pension fund as defined in this section) established for the benefit of the employees of the person by whom such firstmentioned person is employed, and the said firstmentioned person or his widow, children, dependants or nominees can individually or jointly become entitled to receive from such fund or funds benefits (other than benefits the value of which would in terms of this Act be required to be included in the income of the recipient for normal tax purposes) totalling in all more than five thousand pounds, none of the said funds shall be regarded as a benefit fund for the purposes of this Act;"

(b) by the substitution for paragraph (b) of the definition of "company" of the following paragraph:

"(b) any association incorporated or registered outside the Union which carries on business or has an office or place of business in the Union or in which any person ordinarily resident or carrying on business in the Union is interested as a shareholder or member; or".

Amendment of section 4 of Act 31 of 1941.

3. Section *four* of the principal Act is hereby amended by the addition at the end of sub-section (1) of the following proviso:

"Provided that any information obtained by the Commissioner in the performance of his duties under the provisions of this Act or any previous Income Tax Acts of the Union may be used by him for the purposes of the provisions of any other fiscal law administered by him."

Amendment of section 7 of Act 31 of 1941, as amended by section 2 of Act 34 of 1942, section 2 of Act 26 of 1943, section 3 of Act 39 of 1945, section 4 of Act 55 of 1946,

4. Section *seven* of the principal Act is hereby amended—

(a) by the addition at the end of paragraph (g)*bis* of the definition of "gross income" of the following proviso:

"Provided that all dividends from sources outside the Union received by or accrued to any person (other than a company) who is ordinarily resident in the Union shall be deemed to have been received by or to have accrued to such person from a source within the Union;"

loop van die myn van goud gewin mag word, en enige inkomste wat volgens die mening van die Kommissaris regstreeks uit die myn van goud voortvloei.

- (b) Vir die doeleindes van sub-paragraaf (e) van paragraaf (A) van sub-artikel (1) word die gemiddelde skaal van normale belasting vasgestel deur die totale normale belasting (met uitsluiting van die belasting ooreenkomstig genoemde sub-paragraaf vir die tydperk van aanslag vasgestel) wat deur die betrokke maatskappy betaal is ten opsigte van sy totale belasbare inkomste uit die myn van goud vir die tydperk vanaf die eerste dag van Julie 1916 tot die end van die tydperk waarvoor aangeslaan word, te deel deur die getal van die ponde wat genoemde totale belasbare inkomste bevat.
- (c) Die belasting ooreenkomstig enigeen van die sub-paragraawe (a) tot (e) van paragraaf (A) van sub-artikel (1) vasgestel, is betaalbaar benewens die belasting vasgestel ooreenkomstig enige andere van genoemde sub-paragraawe.

(3) Vir die aanslag van 'n belasting deur 'n provinsiale raad in die uitoefening van sy bevoegdhede kragtens die Konsolidasie- en Wysigingswet op Finansiële Verhoudings, 1945 (Wet No. 38 van 1945), opgelê op inkomste van persone en maatskappye, word die bedrae van normale en superbelasting deur 'n belastingpligtige kragtens die Inkomstebelastingwette van die Unie verskuldig vir die jaar van aanslag wat op die dertigste dag van Junie 1955 eindig, geag gelyk te staan aan die onderskeie bedrae wat as normale en superbelasting verskuldig sou gewees het as die bepalinge betreffende die byvoeging bedoel in die tweede voorbehoudsbepaling by item (ii) van sub-paragraaf (a) van paragraaf (A) van sub-artikel (1) en in die voorbehoudsbepaling by paragraaf (B) van genoemde sub-artikel, nie wet geword het nie.

2. Artikel een van die Hoofwet word hiermee gewysig—

- (a) deur aan die end van die omskrywing van „bystandsfonds” die volgende voorbehoudsbepaling by te voeg:

„Met dien verstande dat as 'n persoon lid is van 'n fonds of fondse (uitgesonderd 'n pensioenfonds soos in hierdie artikel omskryf) wat ingestel is vir die voordeel van die werknemers van die persoon by wie eersbedoelde persoon in diens is, en bedoelde eersbedoelde persoon, of sy weduwee, kinders, afhanklikes of benoemdes, afsonderlik of gesamentlik daarop geregtig kan word om van sodanige fonds of fondse voordele (behalwe voordele waarvan die waarde ingevolge hierdie Wet vir die doeleindes van normale belasting by die ontvanger se inkomste ingesluit sou moes word) te ontvang wat tesame meer as vyfduisend pond bedra, geeneen van bedoelde fondse by die toepassing van hierdie Wet as 'n bystandsfonds beskou word nie;”;

- (b) deur paragraaf (b) van die omskrywing van „maatskappy” deur die volgende paragraaf te vervang:

„(b) 'n vereniging buite die Unie ingelyf of geregistreer wat in die Unie besigheid dryf of 'n kantoor of besigheidsplek het of waarin 'n persoon wat gewoonlik in die Unie woonagtig is of daarin besigheid dryf, as 'n aandeelhouer of lid belang het; of”.

Wysiging van artikel 1 van Wet 31 van 1941, soos gewysig deur artikel 2 van Wet 39 van 1945, artikel 3 van Wet 55 van 1946, artikel 2 van Wet 40 van 1948, artikel 2 van Wet 45 van 1949 en artikel 2 van Wet 56 van 1952.

3. Artikel vier van die Hoofwet word hiermee gewysig deur aan die end van sub-artikel (1) die volgende voorbehoudsbepaling by te voeg:

„Met dien verstande dat enige inligting deur die Kommissaris by die vervulling van sy pligte ingevolge die bepalinge van hierdie Wet of vorige Inkomstebelastingwette van die Unie bekom, deur hom gebruik kan word vir die doeleindes van die bepalinge van enige ander belastingwet wat deur hom uitgevoer word.”.

Wysiging van artikel 4 van Wet 31 van 1941.

4. Artikel sewe van die Hoofwet word hiermee gewysig—

- (a) deur aan die end van paragraaf (g)*bis* van die omskrywing van „bruto-inkomste” die volgende voorbehoudsbepaling by te voeg:

„Met dien verstande dat alle diwidende uit bronne buite die Unie wat ontvang is deur of toegeval het aan 'n persoon (behalwe 'n maatskappy) wat gewoonlik in die Unie woonagtig is, geag word deur so 'n persoon ontvang te gewees het of aan hom toe te geval het uit 'n bron in die Unie;”;

Wysiging van artikel 7 van Wet 31 van 1941, soos gewysig deur artikel 2 van Wet 34 van 1942, artikel 2 van Wet 26 van 1943, artikel 3 van Wet 39 van 1945, artikel 4 van Wet 5 van 1946,

section 3 of
Act 45 of 1949,
section 2 of
Act 64 of 1951
and section 3 of
Act 56 of 1952.

- (b) by the addition at the end of paragraph (h) of the said definition of the following proviso:

"Provided that all amounts which in terms of sub-section (4) of section *eleven* are required to be included in the taxpayer's income shall be deemed to have been received by or to have accrued to the taxpayer from a source within the Union notwithstanding that such amounts may have been recovered or recouped outside the Union."

Amendment of
section 11 of
Act 31 of 1941,
as amended by
section 4 of
Act 34 of 1942,
section 5 of
Act 26 of 1943,
section 6 of
Act 39 of 1945,
section 7 of
Act 55 of 1946,
section 4 of
Act 40 of 1948,
section 6 of
Act 45 of 1949,
section 5 of
Act 56 of 1952,
section 5 of
Act 34 of 1953
and section 2
of Act 55 of
1954.

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

- (a) by the deletion in paragraph (o) of sub-section (2), with effect from the date of commencement of the said paragraph, of the words "or letting";
(b) by the addition to the said sub-section of the following paragraphs:

"(q) in respect of any person suffering from any physical disability and the sum of whose taxable income (as calculated before allowing any deduction under this paragraph) and dividends referred to in paragraph (k) of sub-section (1) of section *ten* for the year of assessment in question does not exceed one thousand five hundred pounds, notwithstanding the provisions of paragraphs (a) and (b) of section *twelve*, so much of any expenditure, but not exceeding one hundred and fifty pounds, incurred by such person during such year of assessment as the Commissioner is satisfied was necessarily incurred by him in consequence of such disability and for the purpose of carrying on his trade and which is not such expenditure as is referred to in any of the other paragraphs of this sub-section;

(r) notwithstanding the provisions of paragraphs (a) and (b) of section *twelve*, an allowance not exceeding one hundred pounds in respect of fees paid by the taxpayer during the year of assessment to dentists and medical practitioners for dental and medical services rendered to the taxpayer, his wife, children or stepchildren referred to in paragraph (a) of sub-section (2) of section *thirteen*, or to any nursing home in connection with any confinement of his wife."

Amendment of
section 13 of
Act 31 of 1941,
as amended by
section 7 of
Act 39 of 1945,
section 8 of
Act 55 of 1946,
section 2 of
Act 52 of 1947,
section 5 of
Act 40 of 1948,
section 6 of
Act 56 of 1952
and section 3
of Act 55 of 1954.

6. Section *thirteen* of the principal Act is hereby amended by the substitution in paragraph (a) of sub-section (2) for the word "ten" of the word "twelve".

Insertion of
section 16bis
in Act 31 of
1941.

7. (1) The following section is hereby inserted in the principal Act after section *sixteen*:

*Assessment
of persons
residing,
registered,
managed or
controlled
outside
the Union
and who
derive
income from
film busi-
ness.

16bis. (1) Where any person referred to in sub-section (2) derives income under or by virtue of any contract or agreement with any other person in relation to the carrying on in the Union by such other person of any business of distributing, exhibiting or exploiting motion picture films, or of leasing such films to other persons, or of licensing other persons to exhibit or display such films, or in relation to the acquisition of any advertising matter for use in connection with such films, such firstmentioned person shall be deemed to have derived under or by virtue of such contract or agreement a taxable income equal to an amount arrived at by deducting from an amount equal to ten per centum of the income derived by him as aforesaid any expenditure and losses (other than expenditure or losses of a capital nature) actually incurred by him in the Union during the year of assessment under or by virtue of such contract or agreement.

- (b) deur aan die end van paragraaf (h) van genoemde om-skriving die volgende voorbehoudsbepaling by te voeg:
- „Met dien verstande dat alle bedrae wat ingevolge sub-artikel (4) van artikel *elf* by die belastingpligtige se inkomste ingesluit moet word, geag word deur die belastingpligtige ontvang te gewees het of aan hom toe te geval het uit 'n bron in die Unie, nieteenstaande die feit dat sodanige bedrae buite die Unie ingevorder of vergoed mag gewees het.”.

artikel 3 van
Wet 45 van 1949,
artikel 2 van
Wet 64 van 1951
en artikel 3 van
Wet 56 van 1952.

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

- (a) deur in paragraaf (o) van sub-artikel (2), met ingang van die datum van inwerkingtreding van bedoelde paragraaf, die woorde „of verhuur” te skrap;

- (b) deur die volgende paragrawe by genoemde sub-artikel by te voeg:

„(q) ten opsigte van 'n persoon wat aan 'n liggaams-gebrek ly en die totaal van wie se belasbare inkomste (soos bereken voordat enige vermindering ingevolge hierdie paragraaf toegestaan word) en diwidende in paragraaf (k) van sub-artikel (1) van artikel *tien* bedoel, vir die betrokke jaar van aanslag nie eenduisend vyfhonderd pond te bowe gaan nie, ondanks die bepalings van paragrawe (a) en (b) van artikel *twalf*, soveel van enige onkoste, maar hoogstens honderd-en-vyftig pond, deur bedoelde persoon gedurende daardie jaar van aanslag aangegaan as wat die Kommissaris oortuig is noodsaaklikerwys deur hom aangegaan is as gevolg van sodanige gebrek en met die doel om sy bedryf voort te sit, en wat nie sulke onkoste is as wat in ander paragrawe van hierdie sub-artikel bedoel word nie;

- (r) ondanks die bepalings van paragrawe (a) en (b) van artikel *twalf*, 'n vermindering van hoogstens honderd pond ten opsigte van gelde deur die belastingpligtige gedurende die jaar van aanslag aan tandartse en mediese praktisyns betaal vir tandheelkundige en mediese dienste wat aan die belastingpligte, sy eggenote, kinders of stiefkinders in paragraaf (a) van sub-artikel (2) van artikel *dertien* bedoel, gelewer is of aan 'n verpleeginrigting in verband met enige bevalling van sy eggenote.”.

Wysiging van
artikel 11 van
Wet 31 van 1941
soos gewysig
deur artikel 4
van Wet 34 van
1942, artikel 5
van Wet 26 van
1943, artikel 6
van Wet 39 van
1945, artikel 7
van Wet 55 van
1946, artikel 4
van Wet 40 van
1948, artikel 6
van Wet 45 van
1949, artikel 5
van Wet 56 van
1952, artikel 5
van Wet 34 van
1953 en artikel
2 van Wet 55 van
1954.

6. Artikel *dertien* van die Hoofwet word hiermee gewysig deur in paragraaf (a) van sub-artikel (2) die woord „tien” deur die woord „twalf” te vervang.

Wysiging van
artikel 13 van
Wet 31 van 1941,
soos gewysig
deur artikel 7
van Wet 39 van
1945, artikel 8
van Wet 55 van
1946, artikel 2
van Wet 52 van
1947, artikel 5
van Wet 40 van
1948, artikel 6
van Wet 56 van
1952 en artikel
3 van Wet 55 van
1954.

7. (1) Die volgende artikel word hiermee na artikel *sestien* in die Hoofwet ingevoeg:

„Aanslag
van persone
buite die
Unie woon-
agtig, geregi-
streer, be-
stuur of
beheer, wat
inkomste
uit die film-
bedryf ver-
kry.

16bis. (1) Wanneer 'n in sub-artikel (2) bedoelde persoon inkomste verkry ingevolge of uit hoofde van 'n kontrak of ooreenkoms met 'n ander persoon met betrekking tot die dryf in die Unie deur so 'n ander persoon van die besigheid van die verspreiding, vertoning of eksploitasie van rolprentfilms, of van die verhuur van sulke films aan ander persone, of van die lisensiëring van ander persone om sulke films ten toon te stel of te vertoon, of met betrekking tot die verkryging van advertensiestukke vir gebruik in verband met sulke films, word eersbedoelde persoon geag ingevolge of uit hoofde van so 'n kontrak of ooreenkoms 'n belasbare inkomste te verkry het gelyk aan 'n bedrag wat verkry word deur van 'n bedrag gelyk aan tien persent van die inkomste deur hom soos voormeld verkry, af te trek die onkoste en verliese (behalwe onkoste of verliese van 'n kapitale aard) werklik deur hom in die Unie gedurende die jaar van aanslag ingevolge of uit hoofde van die kontrak of ooreenkoms gemaak of gely.

Invoeging van
artikel 16bis
in Wet 31 van
1941.

(2) The provisions of this section shall apply to every person (other than a company) who is not ordinarily resident in the Union and to any company which is not registered, managed nor controlled in the Union."

(2) The amendment effected by sub-section (1) shall be deemed first to have taken effect in respect of assessments for the year of assessment ended upon the thirtieth day of June, 1943: Provided that any assessments made before the coming into operation of this Act on any basis other than that provided for in such amendment shall not be invalidated by the said amendment.

Amendment of section 29 of Act 31 of 1941, as substituted by section 4 of Act 47 of 1944 and amended by section 8 of Act 39 of 1945.

8. Section *twenty-nine* of the principal Act is hereby amended—

(a) by the addition to sub-section (1) of the following paragraph:

"(c) in respect of the year of assessment ending on the thirtieth day of June, 1955, and any subsequent year of assessment, a further sum equal to the taxes on income, if any, paid or payable by the taxpayer to the Government of any other country or territory on any dividends referred to in the proviso to paragraph (g)*bis* of the definition of 'gross income' in section *seven* which have been included in his income subject to super tax for the year of assessment in question: Provided that the deduction under this paragraph in respect of any such dividends so included in the income subject to super tax of the taxpayer shall not exceed so much of the amount of the super tax payable by the taxpayer (as calculated before the deduction of any rebate under this section and the addition of the sum referred to in the proviso to paragraph (B) of sub-section (1) of section *one* of the Income Tax Act, 1955, or the corresponding provisions of any subsequent Income Tax Acts of the Union) for the year of assessment in question as is attributable on a proportionate basis to the inclusion in his income subject to super tax of the said dividends.";

(b) by the insertion in sub-section (2) after the word "deduction" of the words "in terms of paragraph (a) or (b) of sub-section (1)" and after the word "rebate" of the words "referred to in the relevant paragraph".

Amendment of section 30 of Act 31 of 1941, as substituted by section 5 of Act 47 of 1944 and amended by section 7 of Act 56 of 1952.

9. Section *thirty* of the principal Act is hereby amended by the addition to sub-section (1) of the following paragraph:

"(b) so much of any dividend received by or accrued to any person (other than a company) who is ordinarily resident in the Union from any company not registered in the Union as the Commissioner is satisfied has been distributed out of any profits of such company in respect of which any amount has been included (whether in the current or any previous year of assessment) in the taxable income or income subject to super tax of such person as the result of the apportionment under the income tax law of the Territory of South-West Africa of the taxable income or income subject to super tax of such company among its shareholders."

Addition of Parts V and VI to Chapter II of Act 31 of 1941.

10. The following parts are hereby added to Chapter II of the principal Act:

"PART V.

Undistributed Profits Tax.

Levy of undistributed profits tax.

49. Subject to the provisions of section *fifty-one* there shall be paid annually for the benefit of the Consolidated Revenue Fund by every company registered or carrying on business in the Union a tax (in this Act referred to as undistributed profits tax) of five shillings on each pound of the amount by which the distributable income of that company for the year of assessment ending the thirtieth day of June, 1955, and each succeeding year of assessment

(2) Die bepalings van hierdie artikel is van toepassing op elke persoon (behalwe 'n maatskappy) wat nie gewoonlik in die Unie woonagtig is nie en op enige maatskappy wat nie in die Unie geregistreer is of bestuur of beheer word nie."

(2) Die wysiging deur sub-artikel (1) aangebring, word geag vir die eerste maal ten opsigte van aanslae vir die jaar van aanslag wat op die dertigste dag van Junie 1943 geëindig het, in werking te getree het: Met dien verstande dat aanslae wat voor die inwerkingtreding van hierdie Wet op 'n ander grondslag as dié waarvoor in bedoelde wysiging voorsiening gemaak word, gedoen is, nie deur genoemde wysiging onwettig gemaak word nie.

8. Artikel *nege-en-twintig* van die Hoofwet word hiermee gewysig—

(a) deur die volgende paragraaf by sub-artikel (1) by te voeg:

„(c) ten opsigte van die jaar van aanslag wat op die dertigste dag van Junie 1955 eindig, en enige latere jaar van aanslag, 'n verdere som gelyk aan die belastinge op inkomste, as daar is, betaal of betaalbaar deur die belastingpligtige aan die Regering van enige ander land of gebied op diwidende in die voorbehoudsbepaling by paragraaf (g)*bis* van die omskrywing van 'bruto-inkomste' in artikel *sewe* bedoel, wat by sy aan superbelasting onderhewige inkomste vir die betrokke jaar van aanslag ingesluit is, afgetrek: Met dien verstande dat die aftrekking ingevolge hierdie paragraaf ten opsigte van sodanige diwidende wat aldus by die aan superbelasting onderhewige inkomste van die belastingpligtige ingesluit is, nie soveel van die bedrag van die superbelasting (soos bereken voordat enige korting ingevolge hierdie artikel afgetrek en die in die voorbehoudsbepaling by paragraaf (B) van sub-artikel (1) van artikel *een* van die Inkomstebelastingwet, 1955, of die ooreenstemmende bepalings van latere Inkomstebelastingwette van die Unie, bedoelde bedrag bygevoeg is) wat deur die belastingpligtige vir die betrokke jaar van aanslag betaalbaar is as wat op 'n proporsionele grondslag aan die inrekening van bedoelde diwidende by sy aan superbelasting onderhewige inkomste toe te skryf is, mag oorskry nie.”;

(b) deur in sub-artikel (2) na die woord „bedrag”, waar dit vir die eerste maal voorkom, die woorde „ingevolge paragraaf (a) of (b) van sub-artikel (1)” en voor die woord „korting” die woorde „in die toepaslike paragraaf bedoelde” in te voeg.

9. Artikel *dertig* van die Hoofwet word hiermee gewysig deur die volgende paragraaf by sub-artikel (1) by te voeg:

„(b) soveel van enige diwidend ontvang deur of toegeval aan 'n persoon (behalwe 'n maatskappy) wat gewoonlik in die Unie woonagtig is, van 'n maatskappy wat nie in die Unie geregistreer is nie, as wat die Kommissaris oortuig is, uitgekeer is uit enige winste van sodanige maatskappy ten opsigte waarvan 'n bedrag by die belasbare inkomste of aan superbelasting onderhewige inkomste van so 'n persoon (hetsy in die lopende of 'n vorige jaar van aanslag) ingereken is as gevolg van die toedeling van die belasbare inkomste of aan superbelasting onderhewige inkomste van sodanige maatskappy onder sy aandeelhouders ingevolge die inkomstebelastingwet van die Gebied Suidwes-Afrika.”.

10. Die volgende Dele word hiermee by Hoofstuk II van die Hoofwet bygevoeg:

„DEEL V.

Belasting op Onuitgekeerde Winste.

Heffing van belasting op onuitgekeerde winste.

49. Behoudens die bepalings van artikel *een-en-vyftig* word daar jaarliks deur elke maatskappy wat in die Unie geregistreer is of daarin besigheid dryf, ten bate van die Gekonsolideerde Inkomstefonds 'n belasting (in hierdie Wet belasting op onuitgekeerde winste genoem) betaal van vyf sjielings op elke pond van die bedrag waarmee die uitkeerbare inkomste van daardie maatskappy vir die jaar van aanslag wat op die dertigste dag van Junie 1955 eindig, en elke daaropvolgende jaar van aanslag daarna, die bedrag

Wysiging van artikel 29 van Wet 31 van 1941, soos vervang deur artikel 4 van Wet 47 van 1944 en gewysig deur artikel 8 van Wet 39 van 1945.

Wysiging van artikel 30 van Wet 31 van 1941, soos vervang deur artikel 5 van Wet 47 van 1944 en gewysig deur artikel 7 van Wet 56 van 1952.

Byvoeging van Dele V en VI by Hoofstuk II van Wet 31 van 1941.

thereafter, exceeds the amount of the dividends distributed by such company during the specified period.

Definitions
for purposes
of Part V of
Chapter II.

50. For the purposes of this Part—

- (i) 'distributable income' in relation to any company in respect of any year of assessment means the amount arrived at by deducting from the sum of—
 - (a) the total net profits of the company for the year of assessment; and
 - (b) all amounts deducted in terms of paragraph (i) of this definition in the determination of the company's distributable income, whether in the current or any previous year of assessment, which have been recovered or recouped by it during the current year of assessment,
 the sum of—
 - (i) any expenditure (other than expenditure of a capital nature) which is proved to the satisfaction of the Commissioner to have been actually and necessarily incurred by the company during the year of assessment in the course and by reason of its ordinary business operations and which is not expenditure that is allowable as a deduction in the determination of the company's total net profits;
 - (ii) any taxes on income (excluding undistributed profits tax) payable by the company in respect of all amounts included in its total net profits; and
 - (iii) an allowance equal to forty per centum of so much of the sum of the amounts referred to in paragraphs (a) and (b) of this definition as is not attributable to the inclusion in the profits of such company of any dividends received by or accrued to or deemed to have been received by or to have accrued to it: Provided that, in the case of any company which is recognized as a public company in terms of paragraph (a) of sub-section (2) of section *thirty-three* and whose total net profits are derived solely or mainly from dividends, the allowance under this paragraph shall be an amount equal to forty per centum of the sum of the amounts referred to in paragraphs (a) and (b) of this definition.; (iv)
- (ii) 'fair value' in relation to any asset means the fair market value of such asset: Provided that in the determination of the fair market value of any asset regard shall be had, *inter alia*, to—
 - (a) any sworn valuation of the asset which may be furnished by or on behalf of the company concerned;
 - (b) any valuation of the asset made by any competent and disinterested person appointed by the Commissioner;
 - (c) any other relevant facts within the knowledge of the Commissioner or the company concerned which either of them considers could reasonably be taken into account; (ii)
- (iii) 'specified period' in respect of any year of assessment, means the period of twelve months ending six months after the specified date for that year of assessment as defined in sub-section (4) of section *thirty-three*; (i)
- (iv) 'total net profits' in relation to any company in respect of any year of assessment means the net profits of that company for such year of assessment calculated in the manner prescribed

Woordbe-
paling vir
oogmerke
van Deel V
van Hoof-
stuk II.

van die diwidende wat deur sodanige maatskappy gedurende die bepaalde tydperk uitgekeer is, te bowe gaan.

50. Vir die oogmerke van hierdie Deel beteken—
- (i) 'bepaalde tydperk', ten opsigte van 'n jaar van aanslag, die tydperk van twaalf maande wat ses maande na die bepaalde datum vir daardie jaar van aanslag soos in sub-artikel (4) van artikel *drie-en-dertig* omskryf, eindig; (iii)
 - (ii) 'billike waarde', met betrekking tot 'n bate, die billike markwaarde van sodanige bate: Met dien verstande dat by die vasstelling van die billike markwaarde van 'n bate rekening gehou word met onder meer—
 - (a) enige beëdigde waardering van die bate wat deur of namens die betrokke maatskappy verskaf mag word;
 - (b) enige waardering van die bate wat deur 'n deur die Kommissaris aangestelde bevoegde en onpartydige persoon gemaak is;
 - (c) enige ander ter sake dienende feite waarvan die Kommissaris of die betrokke maatskappy kennis dra en wat volgens die mening van enigeen van hulle redelikerwys in aanmerking geneem kan word; (ii)
 - (iii) 'totale netto-winste', met betrekking tot 'n maatskappy ten opsigte van enige jaar van aanslag, die netto-winste van daardie maatskappy vir sodanige jaar van aanslag, bereken op die wyse wat voorgeskryf is vir die vasstelling vir die doeleindes van normale belasting van belasbare inkomste ten opsigte van daardie jaar van aanslag, maar sonder inagneming daarvan of die winste uit 'n bron in of buite die Unie verkry is en onderworpe aan die inrekening by die winste van sodanige maatskappy van alle diwidende uit watter bron ook al en enige in paragrawe (h) en (i) van sub-artikel (1) van artikel *tien* bedoelde bedrae wat ontvang is deur of toegeval het aan of geag word ontvang te gewees het deur of toe te geval het aan sodanige maatskappy gedurende sodanige jaar van aanslag; (iv)
 - (iv) 'uitkeerbare inkomste', met betrekking tot 'n maatskappy ten opsigte van 'n jaar van aanslag, die bedrag wat verkry word deur van die som van—
 - (a) die totale netto-winste van die maatskappy vir die jaar van aanslag; en
 - (b) alle bedrae wat ingevolge paragraaf (i) van hierdie omskrywing afgetrek is by die vasstelling van die maatskappy se uitkeerbare inkomste, ditsy in die lopende of enige vorige jaar van aanslag, en wat gedurende die lopende jaar van aanslag deur hom ingevorder of aan hom vergoed is,
 af te trek die som van—
 - (i) enige onkoste (behalwe onkoste van 'n kapitale aard) ten opsigte waarvan daar tot bevrediging van die Kommissaris bewys word dat dit werklik en noodsaaklikerwys deur die maatskappy gedurende die jaar van aanslag in die loop van en weens sy gewone besigheidswerksaamhede aangegaan is, en wat nie onkoste is wat toelaatbaar is as 'n vermindering by die vasstelling van die maatskappy se totale netto-winste nie;
 - (ii) enige belasting op inkomste (uitgesonderd belasting op onuitgekeerde winste) wat deur die maatskappy betaalbaar is ten opsigte van alle bedrae wat by sy totale netto-winste ingesluit is; en
 - (iii) 'n vermindering gelyk aan veertig persent van soveel van die som van die in paragrawe (a) en (b) van hierdie omskrywing bedoelde bedrae as wat nie toe te skryf is nie aan die inrekening by die winste van sodanige maatskappy van enige diwidende wat ontvang is deur of toegeval het aan of geag word ontvang te gewees het deur of toe te geval het aan hom: Met

for the determination for normal tax purposes of taxable income in respect of that year of assessment, but irrespective of whether the profits are derived from a source within or outside the Union and subject to the inclusion in the profits of such company of all dividends from whatever source and any amounts referred to in paragraphs (h) and (i) of sub-section (1) of section *ten* received by or accrued to or deemed to have been received by or to have accrued to such company during such year of assessment. (iii)

Exemptions. **51.** There shall be exempt from the undistributed profits tax—

- (a) any association referred to in paragraph (d) of the definition of "company" in section *one*;
- (b) companies referred to in paragraphs (c), (d) and (f) of sub-section (2) of section *thirty-three*;
- (c) companies in respect of which the provisions of sections *fifteen*, *sixteen*, *sixteen bis*, *eighteen* and *twenty* are by virtue of the definition of total net profits in section *fifty* applicable to the determination of that portion of their total net profits which is derived from their principal business;
- (d) any company which satisfies the Commissioner that shares representing not less than fifty per centum of its issued capital were throughout the specified period held by one or more persons (other than companies) not ordinarily resident nor carrying on business in the Union, or by one or more companies registered outside the Union and deriving the greater portion of their profits for the year of assessment in question from sources not within or deemed to be within the Union or by one or more such persons (other than companies) and one or more such companies: Provided that for the purpose of determining the portion of its profits which has been derived by any company from sources within or deemed to be within the Union for any year of assessment there shall be included in the profits derived by such company from sources within or deemed to be within the Union as well as in the profits derived by it from all sources during such year of assessment the amount, if any, by which the dividends received by or accrued to such company during such year of assessment from any company registered in the Union are less than the dividends which would have been received by or would have accrued to such firstmentioned company from such company registered in the Union if the latter had distributed by way of dividends during such year of assessment an amount equal to not less than thirty per centum of its total net profits for the said year of assessment;
- (e) any company registered outside the Union which carries on business in the Union and satisfies the Commissioner that not more than fifty per centum of its total net profits for the year of assessment in question was derived from sources within or deemed to be within the Union;
- (f) any company (other than a company which is not recognized as a public company in terms of paragraph (a) of sub-section (2) of section *thirty-three* and whose total net profits are derived solely or mainly from dividends) which satisfies the Commissioner that the amount arrived at by deducting from the sum of all its reserves (including any share premium account) and balance of profits unappropriated as at the specified date the sum of the dividends distributed by such company during the last six months of the specified period and the taxes on income (excluding

dien verstande dat, in die geval van 'n maatskappy wat ingevolge paragraaf (a) van sub-artikel (2) van artikel *drie-en-dertig* as 'n publieke maatskappy erken word en wie se totale netto-winste uitsluitlik of hoofsaaklik uit diwidende verkry word, die vermindering ingevolge hierdie paragraaf 'n bedrag is gelyk aan veertig persent van die som van die in paragrawe (a) en (b) van hierdie omskrywing bedoelde bedrae. (i)

Vrystellings. 51. Van belasting op onuitgekeerde winste word vrygestel—

- (a) enige in paragraaf (d) van die omskrywing van 'maatskappy' in artikel *een* bedoelde vereniging;
- (b) maatskappe in paragrawe (c), (d) en (f) van sub-artikel (2) van artikel *drie-en-dertig* bedoel;
- (c) maatskappe ten opsigte waarvan die bepalings van artikels *vyftien*, *sestien*, *sestien bis*, *agtien* en *twintig* uit hoofde van die omskrywing van totale netto-winste in artikel *vyftig* van toepassing is op die vasstelling van die gedeelte van hulle totale netto-winste wat uit hulle vernaamste besigheid verkry word;
- (d) enige maatskappy wat die Kommissaris daarvan oortuig dat aandele wat nie minder as vyftig persent van sy uitgereikte kapitaal verteenwoordig nie, gedurende die hele bepaalde tydperk gehou is deur een of meer persone (behalwe maatskappe) wat nie gewoonlik in die Unie woonagtig is en nie daarin besigheid dryf nie, of deur een of meer maatskappe wat buite die Unie geregistreer is en die grootste gedeelte van hulle winste vir die onderhawige jaar van aanslag uit bronne verkry wat nie in die Unie is of geag word te wees nie, of deur een of meer sodanige persone (behalwe maatskappe) en een of meer sodanige maatskappe: Met dien verstande dat by die vasstelling van die gedeelte van sy winste wat 'n maatskappy vir enige jaar van aanslag verkry het uit bronne in die Unie of geag in die Unie te wees, daar by die winste wat deur sodanige maatskappy verkry is uit bronne in die Unie of geag in die Unie te wees, sowel as by die winste wat deur hom uit alle bronne gedurende sodanige jaar van aanslag verkry is, ingereken word die bedrag, as daar is, wat die diwidende ontvang deur of toegeval aan sodanige maatskappy gedurende sodanige jaar van aanslag van 'n maatskappy wat in die Unie geregistreer is, minder is as die diwidende wat sou ontvang gewees het deur of sou toegeval het aan eersbedoelde maatskappy van sodanige maatskappy wat in die Unie geregistreer is, indien laasgenoemde gedurende sodanige jaar van aanslag 'n bedrag by wyse van diwidende gelyk aan minstens dertig persent van sy totale netto-winste vir bedoelde jaar van aanslag, uitgekeer het;
- (e) enige maatskappy wat buite die Unie geregistreer is en in die Unie besigheid dryf en wat die Kommissaris daarvan oortuig dat nie meer as vyftig persent van sy totale netto-winste vir die onderhawige jaar van aanslag verkry is nie uit bronne in die Unie of geag in die Unie te wees;
- (f) enige maatskappy (behalwe 'n maatskappy wat nie ingevolge paragraaf (a) van sub-artikel (2) van artikel *drie-en-dertig* as 'n publieke maatskappy erken word nie en wie se totale netto-winste uitsluitlik of hoofsaaklik uit diwidende verkry word) wat die Kommissaris daarvan oortuig dat die bedrag wat verkry word deur van die som van al sy reserwes (met inbegrip van enige aandele-premierekening) en balans van onverdeelde winste op die bepaalde datum, af te trek die som van die diwidende wat deur sodanige maatskappy gedurende die laaste ses maande van die bepaalde tydperk uitgekeer is en die belasting op inkomste (uitgesonderd belasting op onuitgekeurde winste)

undistributed profits tax) payable by such company in respect of all amounts included in its total net profits for the year of assessment in question did not exceed the greater of the following amounts, namely—

- (i) fifteen thousand pounds; or
- (ii) thirty per centum of such company's paid up capital as at the specified date;
- (g) any company whose total net profits for the year of assessment in question did not exceed five per centum of its paid up capital as at the specified date;
- (h) the South African Reserve Bank, the National Finance Corporation of South Africa and any company registered as a banking institution under the Banking Act, 1942 (Act No. 38 of 1942);
- (i) any company all of whose shares were throughout the specified period held by the Government of the Union or by one or more companies which are themselves exempt from this tax;
- (j) any company in which shares representing not less than seventy-five per centum of such company's issued capital are held by one or more companies in respect of which the provisions of section *twenty* are by virtue of the definition of total net profits in section *fifty* applicable to the determination of that portion of their total net profits which is derived from their principal business.

Assessment
of un-
distributed
profits tax.

52. The Commissioner shall after the close of the specified period issue an assessment to the public officer of the company of the amount by which the distributable income for any year of assessment exceeds the dividends distributed by such company during such specified period and shall state in such assessment the amount of tax payable and the place where and the date on which such tax shall be paid.

Special
provisions
to apply in
certain
cases.

53. (1) The liability for undistributed profits tax for any year of assessment of any company which is registered outside the Union and carries on business in the Union shall be determined as though—

- (a) that portion of the total net profits which was derived by the company during such year of assessment from sources within or deemed to be within the Union represented the company's total net profits for that year of assessment;
- (b) the sum of the company's reserves (including any share premium account) and balance of profits unappropriated which in the opinion of the Commissioner are attributable to its business in the Union represented the sum of all its reserves (including any share premium account) and balance of profits unappropriated;
- (c) the paid up capital of the company as at the specified date were equal to an amount which bears to such company's paid up capital the same ratio as its assets in the Union bear to its total assets;
- (d) the company had distributed by way of dividends during the specified period or any portion thereof an amount which bears to the amount of the dividends, if any, actually distributed by it during such period or such portion thereof, as the case may be, the same ratio as that portion of the total net profits which was derived by the company during such year of assessment from sources within or deemed to be within the Union bears to the company's total net profits for that year of assessment.

- (2) (a) If any company has received as consideration for the issue by it of any share in

wat deur sodanige maatskappy betaalbaar is, ten opsigte van alle bedrae wat by sy totale netto-winste vir die onderhawige jaar van aanslag ingesluit is, nie die grootste van die volgende bedrae te bowe gegaan het nie, naamlik—

- (i) vyftienduisend pond; of
- (ii) dertig persent van sodanige maatskappy se opbetaalde kapitaal op die bepaalde datum;
- (g) enige maatskappy wie se totale netto-winste vir die onderhawige jaar van aanslag nie vyf persent van sy opbetaalde kapitaal op die bepaalde datum, te bowe gegaan het nie;
- (h) die Suid-Afrikaanse Reserwebank, die Nasionale Finansiële korporasie van Suid-Afrika en enige maatskappy wat as 'n bankinstelling ingevolge die Bankwet, 1942 (Wet No. 38 van 1942), geregistreer is;
- (i) enige maatskappy waarvan al die aandele gedurende die hele bepaalde tydperk deur die Regering van die Unie of deur een of meer maatskappye wat self van hierdie belasting vrygestel is, gehou is;
- (j) enige maatskappy waarin aandele wat nie minder as vyf-en-sewentig persent van sodanige maatskappy se uitgereikte kapitaal verteenwoordig nie, gehou word deur een of meer maatskappye ten opsigte waarvan die bepalinge van artikel *twintig* uit hoofde van die omskrywing van totale netto-winste in artikel *vyftig* van toepassing is op die vasstelling van die gedeelte van hulle totale netto-winste wat uit hulle vernaamste besigheid verkry word.

Aanslag van belasting op onuitgekeerde winste.

52. Na afloop van die bepaalde tydperk reik die Kommissaris aan die openbare amptenaar van die maatskappy 'n aanslag uit van die bedrag waarmee die uitkeerbare inkomste vir enige jaar van aanslag die diwidende wat deur sodanige maatskappy gedurende sodanige bepaalde tydperk uitgekeer is, te bowe gaan, en vermeld in sodanige aanslag die bedrag van die belasting wat betaalbaar is en die plek waar en datum waarop sodanige belasting betaal moet word.

Besondere bepalinge in sekere gevalle van toepassing.

53. (1) Die aanspreeklikheid vir belasting op onuitgekeerde winste vir enige jaar van aanslag van 'n maatskappy wat buite die Unie geregistreer is en in die Unie besigheid dryf, word vasgestel asof—

- (a) die gedeelte van die totale netto-winste wat deur die maatskappy gedurende sodanige jaar van aanslag verkry is uit bronne wat in die Unie is of geag word te wees, die maatskappy se totale netto-winste vir daardie jaar van aanslag verteenwoordig het;
- (b) die som van die maatskappy se reserwes (met inbegrip van enige aandele-premierekening) en balans van onverdeelde winste wat na die mening van die Kommissaris toeskryfbaar is aan sy besigheid in die Unie, die som van al sy reserwes (met inbegrip van enige aandele-premierekening) en balans van onverdeelde winste verteenwoordig het;
- (c) die opbetaalde kapitaal van die maatskappy op die bepaalde datum gelyk was aan 'n bedrag wat in dieselfde verhouding staan tot sodanige maatskappy se opbetaalde kapitaal as dié waarin sy bate in die Unie tot sy totale bate staan;
- (d) die maatskappy gedurende die bepaalde tydperk of enige gedeelte daarvan by wyse van diwidende 'n bedrag uitgekeer het wat in dieselfde verhouding staan tot die bedrag van diwidende, as daar is, wat werklik deur hom gedurende sodanige tydperk of sodanige gedeelte daarvan, na gelang van die geval, uitgekeer is, as dié waarin die gedeelte van die totale netto-winste wat deur die maatskappy gedurende sodanige jaar van aanslag verkry is uit bronne wat in die Unie is of geag word te wees, tot die maatskappy se totale netto-winste vir daardie jaar van aanslag staan.

- (2) (a) Indien enige maatskappy as teenprestasie vir die uitreiking deur hom van enige aandeel

such company an asset other than cash and the Commissioner considers that the fair value of such asset as at the date of the issue of the share was less than the nominal value of such share, the paid up capital of such company shall for the purposes of this Part be reduced by the amount by which, in the opinion of the Commissioner, the nominal value of such share exceeded the fair value of such asset as at the said date. The preceding provisions of this paragraph shall apply *mutatis mutandis* where any company has received any asset as consideration for the payment by it of any amount in cash and the issue by it of any share in such company.

- (b) If in terms of any agreement the purchase price (or any portion thereof) paid by any company for any asset acquired by it had to be applied in the acquisition by any person of any shares to be issued by such company, that company shall, to the extent to which the said purchase price was required to be applied in the acquisition of such shares, be deemed for the purposes of paragraph (a) to have received such asset as consideration for the issue by it of such shares.

Objection
and appeal.

54. The decision of the Commissioner in the exercise of his discretion under paragraph (i) of the definition of 'distributable income' in section fifty, paragraphs (d), (e) and (f) of section fifty-one and paragraph (a) of sub-section (2) of section fifty-three shall be subject to objection and appeal.

PART VI.

Donations Tax.

Levy of
donations
tax.

54bis. Subject to the provisions of section fifty-four quat, there shall be paid for the benefit of the Consolidated Revenue Fund a tax (in this Act referred to as donations tax) on the cumulative taxable value of all property disposed of (whether directly or indirectly and whether in trust or not) under donations which take effect on or after the twenty-fourth day of March, 1955, by any person (in this Part referred to as the donor) who, in the case of any person other than a company, is ordinarily resident in the Union, or, in the case of any company, is registered, managed or controlled in the Union.

Definitions
for purposes
of Part VI
of Chapter
II.

54ter. (1) For the purposes of this Part, unless the context otherwise indicates—

- (i) 'cumulative taxable value' means the sum of the values (excluding such values or such portions of such values, as the case may be, as are exempt from donations tax in terms of section fifty-four quat) of all property which is disposed of by any person under donations which take effect on or after the twenty-fourth day of March, 1955; (iii)
- (ii) 'donation' means any gratuitous disposal of property including any gratuitous waiver or renunciation of a right; (iv)
- (iii) 'donee' means any beneficiary under a donation and includes, where property has been disposed of under a donation to any trustee to be administered by him for the benefit of any beneficiary, such trustee: Provided that any donations tax paid or payable by any trustee in his capacity as such may, notwithstanding anything to the contrary contained in the trust deed concerned, be recovered by him from the assets of the trust; (i)
- (iv) 'property' means any right in or to property movable or immovable, corporeal or incorporeal, wheresoever situated. (ii)

in sodanige maatskappy, 'n ander bate as kontant ontvang het, en die Kommissaris van mening is dat die billike waarde van sodanige bate op die datum van die uitreiking van die aandeel minder as die nominale waarde van sodanige aandeel was, word die opbetaalde kapitaal van sodanige maatskappy vir die doeleindes van hierdie Deel verminder met die bedrag waarmee, volgens die mening van die Kommissaris, die nominale waarde van sodanige aandeel die billike waarde van sodanige bate op bedoelde datum oorskry het. Die voorgaande bepalings van hierdie paragraaf is *mutatis mutandis* van toepassing in die geval waar enige maatskappy 'n bate ontvang het as teenprestasie vir die betaling deur hom van enige bedrag in kontant en die uitreiking deur hom van enige aandeel in sodanige maatskappy.

- (b) Indien, ingevolge enige ooreenkoms, die koopprys (of enige gedeelte daarvan) wat deur 'n maatskappy betaal is vir enige bate wat deur hom verkry is, aangewend moes word vir die verkryging deur enige persoon van enige aandele deur die maatskappy uitgereik staan te word, word daardie maatskappy, vir sover bedoelde koopprys aangewend moes word vir die verkryging van sodanige aandele, vir die doeleindes van paragraaf (a) geag sodanige bate as teenprestasie vir die uitreiking deur hom van sodanige aandele te ontvang het.

Beswaar en
appél.

54. Die beslissing van die Kommissaris by die uitoefening van sy diskresie ingevolge paragraaf (i) van die omskrywing van 'uitkeerbare inkomste' in artikel vyftig, paragrawe (d), (e) en (f) van artikel een-en-vyftig en paragraaf (a) van sub-artikel (2) van artikel drie-en-vyftig is aan beswaar en appél onderhewig.

DEEL VI.

Belasting op Geskenke.

Heffing van
belasting op
geskenke.

54bis. Behoudens die bepalings van artikel vier-en-vyftig *quat* word daar ten bate van die Gekonsolideerde Inkomstefonds 'n belasting (in hierdie Wet belasting op geskenke genoem) betaal op die kumulatiewe belasbare waarde van alle eiendom waaroor beskik word (hetsy regstreeks of onregstreeks en hetsy ingevolge 'n trust al dan nie) ingevolge skenkings wat op of na die vier-en-twintigste dag van Maart 1955 in werking tree, deur iemand (in hierdie Deel die skenker genoem) wat, in die geval van 'n ander persoon as 'n maatskappy, gewoonlik in die Unie woonagtig is of, in die geval van 'n maatskappy, in die Unie geregistreer is of bestuur of beheer word.

Woord-
bepaling vir
doeleindes
van Deel VI
van Hoof-
stuk II.

54ter. (1) Vir die doeleindes van hierdie Deel, tensy uit die samehang anders blyk, beteken—

- (i) 'begiftigde' enige begunstigde ingevolge 'n skenking en, waar eiendom ingevolge 'n skenking aan 'n trustee oorgemaak is om deur hom ten bate van 'n begunstigde geadmini- streer te word, ook so 'n trustee: Met dien ver- stande dat, ondanks andersluidende bepalings in die betrokke trustakte vervat, enige belasting op geskenke wat deur 'n trustee in sy hoedanig- heid as sodanig betaal of betaalbaar is, deur hom uit die bate van die trust verhaal kan word; (iii)
- (ii) 'eiendom' enige reg op eiendom, hetsy roerend of onroerend, liggaamlik of onliggaamlik, en waar ook al geleë; (iv)
- (iii) 'kumulatiewe belasbare waarde' die som van die waardes (uitgesonderd die waardes of die gedeeltes van die waardes, na gelang van die geval, wat ingevolge artikel vier-en-vyftig *quat* nie aan belasting op geskenke onderhewig is nie) van alle eiendom waaroor deur iemand beskik word ingevolge skenkings wat op of na die vier-en-twintigste dag van Maart 1955 in werking tree; (i)
- (iv) 'skenking' enige gratis oormaking van eien- dom, en ook enige gratis afstanddoening van 'n reg. (ii)

(2) For the purposes of this Part a donation shall be deemed to take effect upon the date upon which all the legal formalities for a valid donation have been complied with or where property has been delivered under a donation which has not been registered or notarially executed, the date upon which the donor's right of recovery of the excess in value over five hundred pounds becomes prescribed.

Exemptions. 54*quat.* (1) Donations tax shall not be payable in respect of the value of any property which is disposed of under a donation—

- (a) to the spouse of the donor under a duly registered ante-nuptial contract or post-nuptial contract;
- (b) to the spouse of the donor who is not separated from him under a judicial order or notarial deed of separation;
- (c) as a *donatio mortis causa*;
- (d) in terms of which the donee will not obtain any benefit thereunder until the death of the donor;
- (e) which is cancelled within six months from the date upon which it took effect;
- (f) if such property consists of any right in or to an insurance policy which is disposed of by means of a cession in terms of which such right is to revert to the cedent if the cessionary predeceases the cedent;
- (g) if such property consists of any right in immovable property situate outside the Union and was acquired by the donor—
 - (i) not less than ten years before the date upon which the donation takes effect; or
 - (ii) before the donor for the first time became ordinarily resident in the Union (in the case of any person other than a company) or was for the first time registered, managed or controlled in the Union (in the case of a company); or
 - (iii) by inheritance;
- (h) by or to any person (including any Government), referred to in paragraph (a), (b), (c), (d), (e) or (o) of sub-section (1) of section *ten*;
- (i) by or to any institution for the advancement of science or art or of a charitable, educational or ecclesiastical nature, if the Minister of Finance is satisfied that the operations of such institution are in the interest of the public;
- (j) if such property or the income therefrom is required to be devoted wholly to purposes which the Minister of Finance is satisfied are in the interest of the public and which are of a charitable, educational or ecclesiastical nature;
- (k) as a voluntary award the value of which is required to be included in the gross income of the donee in terms of paragraph (b) or (b)*bis* of the definition of 'gross income' in section *seven*;
- (l) if such property is so disposed of under any trust for the purpose of revesting the said property in the person by whom such trust was created.

(2) Donations tax shall not be payable in respect of—

- (a) so much of the sum of the values of all casual gifts made by the donor during the period of twelve months ending on the thirty-first day of December of any year as does not exceed two hundred pounds;
- (b) so much of the value of all property disposed of by the donor under a donation on any date to or for the benefit of his children as, together with so much as was exempt from donations tax in terms of this paragraph of the sum of the values of all property disposed of under donations before such date by the donor to or on behalf of his children, does not exceed the sum

(2) Vir die doeleindes van hierdie Deel word 'n skenking geag in werking te tree op die datum waarop aan alle wetlike formaliteite vir 'n geldige skenking voldoen is of, waar eiendom afgelewer is ingevolge 'n skenking wat nie geregistreer of voor 'n notaris verly is nie, die datum waarop die skenker se reg op terugvordering van soveel as wat vyfhonderd pond se waarde te bowe gaan deur verjaring verval.

Vrystellings.

54quat. (1) Belasting op geskenke is nie betaalbaar nie ten opsigte van die waarde van enige eiendom waarvoor beskik word ingevolge 'n skenking—

(a) aan die eggenoot van die skenker ingevolge 'n behoorlik geregistreerde voor- of nahuwelike kontrak;

(b) aan die eggenoot van die skenker wat nie ingevolge 'n geregtelike skeidingsbevel of notariële skeidingsakte van hom geskei is nie;

(c) by wyse van 'n *donatio mortis causa*;

(d) ingevolge waarvan die begiftigde geen voordeel voor die dood van die skenker daaruit sal ontvang nie;

(e) wat binne ses maande vanaf die datum waarop dit in werking getree het, gekanselleer word;

(f) indien bedoelde eiendom bestaan uit 'n reg op 'n assuransiëpolis waarvoor by wyse van 'n sessie beskik word ingevolge waarvan bedoelde reg aan die sedent moet terugval indien die sessionaris voor die sedent te sterwe kom;

(g) indien sodanige eiendom bestaan uit 'n reg op onroerende eiendom wat buite die Unie geleë is, en deur die skenker verkry is—

(i) nie minder nie as tien jaar voor die datum waarop die skenking in werking tree; of

(ii) voordat die skenker (in die geval van 'n ander persoon as 'n maatskappy) hom vir die eerste keer metterwoon in die Unie gevestig het of, in die geval van 'n maatskappy, vir die eerste keer in die Unie geregistreer, bestuur of beheer is; of

(iii) deur erfenis;

(h) deur of aan enige persoon (insluitende enige Regering) in paragraaf (a), (b), (c), (d), (e) of (o) van sub-artikel (1) van artikel *tien* bedoel;

(i) deur of aan enige inrigting vir die bevordering van die wetenskap of kuns, of van 'n liefdadigheids-, opvoedkundige of godsdienstige aard indien die Minister van Finansies oortuig is dat die bedrywighede van daardie inrigting in die openbare belang is;

(j) indien sodanige eiendom of die inkomste daaruit geheel en al bestee moet word aan doeleindes wat na oortuiging van die Minister van Finansies in die openbare belang is, en wat van liefdadigheids-, opvoedkundige of godsdienstige aard is;

(k) as 'n vrywillige toekenning waarvan die waarde ingevolge paragraaf (b) of (b)*bis* van die omskrywing van 'bruto-inkomste' in artikel *sewe* by die bruto-inkomste van die ontvanger ingesluit moet word;

(l) indien aldus oor sodanige eiendom beskik word ingevolge 'n trust met die doel om bedoelde eiendom terug te laat val aan die persoon deur wie daardie trust geskep is.

(2) Belasting op geskenke is nie betaalbaar nie, ten opsigte van—

(a) soveel van die som van die waardes van alle toevallige skenkings wat gedurende die tydperk van twaalf maande eindigende op die een-en-dertigste dag van Desember van enige jaar deur die skenker gedoen is, as wat tweehonderd pond nie te bowe gaan nie;

(b) soveel van die waarde van alle eiendom waarvoor op enige datum deur die skenker ingevolge 'n skenking beskik word aan of ten voordele van sy kinders as wat, tesame met soveel (as wat ingevolge hierdie paragraaf nie aan belasting op geskenke onderhewig was nie) van die som van die waardes van alle eiendom waarvoor voor sodanige datum ingevolge skenkings deur die skenker aan of ten behoeve van sy kinders beskik is, die bedrag, verkry deur

arrived at by multiplying the amount of two thousand pounds by the number of children of the donor who are alive on the said date: Provided that for the purposes of this paragraph any child of a deceased child of the donor shall be deemed to be a child of the donor, but if more than one child of any one deceased child is alive on the date referred to in this paragraph the children of that deceased child shall be regarded as a single child of the donor alive as at that date;

- (c) so much of any *bona fide* contribution made by the donor towards the maintenance of any person as the Commissioner considers to be reasonable.

Donations
by a wife or
by a body
corporate at
the instance
of any
person.

54quin. (1) If any property is disposed of under a donation by a woman married in or out of community of property and not separated from her husband under a judicial order or notarial deed of separation, that property shall for the purposes of this Part be deemed to be disposed of under a donation by her husband: Provided that—

- (i) any tax paid or payable by the husband in respect of any property disposed of under a donation by the wife may be recovered from the assets of the wife;
- (ii) if either the husband or the wife make written application therefor to the Commissioner or the Commissioner considers it desirable, separate payments may be made by, or separate notices of assessment may be sent to, the respective spouses in respect of the property disposed of under any donation by such husband and wife, respectively, but the total amount of such separate payments or the total tax payable in respect of the separate assessments so issued, as the case may be, shall not be less than the total amount of tax which would have been payable by the husband alone if the value of the property disposed of under a donation by the husband and wife together had been assessed as the value of property disposed of under a donation by the husband alone.

(2) If any property is disposed of under any donation by any body corporate at the instance of any person, that property shall for the purposes of this Part be deemed to be disposed of under a donation by that person: Provided that any tax paid or payable by any person in respect of any property so disposed of under a donation by any body corporate may be recovered from the assets of that body corporate.

(3) For the purposes of sub-section (2) property shall be deemed to be disposed of under a donation by any body corporate at the instance of any person if, having regard to the circumstances under which that donation was made by such body corporate, the Commissioner is of the opinion—

- (a) that it was not made in the ordinary course of the normal income earning operations of that body corporate; and
- (b) that the selection of the donee who benefited by the donation was made at the instance of that person.

Property
disposed of
under
certain
transactions
deemed to
have been
disposed of
under a
donation
and certain
donations
deemed to
have taken
effect after

54sex. (1) Where any property has been disposed of for a consideration which, in the opinion of the Commissioner, is not an adequate consideration that property shall for the purposes of this Part be deemed to have been disposed of under a donation: Provided that in the determination of the value of such property a reduction shall be made of an amount equal to the value of the said consideration.

(2) Every donation which is registered or the subject-matter of which is delivered on or after the twenty-fourth day of March, 1955, shall be deemed

die bedrag van tweeduisend pond te vermenigvuldig met die aantal kinders van die skenker wat op genoemde datum in die lewe is, nie te bowe gaan nie: Met dien verstande dat vir die doeleindes van hierdie paragraaf 'n kind van 'n oorlede kind van die skenker 'n kind van die skenker geag word, maar indien daar op die in hierdie paragraaf bedoelde datum meer as een kind van 'n enkele oorlede kind in die lewe is, die kinders van daardie oorlede kind 'n enkele kind van die skenker wat op daardie datum in lewe is, geag word;

- (c) soveel van enige *bona fide* bydrae deur die skenker tot die onderhoud van enige persoon gemaak as wat die Kommissaris redelik ag.

Skenkings deur 'n eggenote of deur 'n liggaam met regspersoonlikheid wat deur enige persoon daartoe beweeg is.

54quin. (1) Indien oor enige eiendom deur 'n vrou wat in of buite gemeenskap van goedere getroud en nie ingevolge 'n geregtelike skeidingsbevel of notariële skeidingsakte van haar man geskei is nie, ingevolge 'n skenking beskik word, word vir die doeleindes van hierdie Deel geag dat deur haar man ingevolge 'n skenking oor daardie eiendom beskik is: Met dien verstande dat—

- (i) enige belasting deur die man betaal of betaalbaar ten opsigte van eiendom waarvoor sy eggenote ingevolge 'n skenking beskik het, uit die bate van die vrou verhaal kan word;
- (ii) indien of die man of die vrou skriftelik by die Kommissaris daarom aansoek doen of die Kommissaris dit wenslik ag, afsonderlike betalings gemaak kan word deur, of afsonderlike aanslagkennisgewings gestuur kan word aan die onderskeie eggenotes ten opsigte van die eiendom waarvoor deur bedoelde man en vrou onderskeidelik ingevolge 'n skenking beskik is, maar die totale bedrag van sodanige afsonderlike betalings of die totale belasting betaalbaar ten opsigte van die afsonderlike aanslae aldus uitgereik, na gelang van die geval, mag nie minder wees nie as die totale bedrag wat deur die man alleen aan belasting betaalbaar sou gewees het indien die waarde van die eiendom waarvoor die man en die vrou tesame ingevolge 'n skenking beskik het, aangeslaan was as die waarde van die eiendom waarvoor die man alleen ingevolge skenkings beskik het.

(2) Indien ingevolge 'n skenking oor eiendom beskik word deur 'n liggaam met regspersoonlikheid wat deur enige persoon daartoe beweeg is, word by die toepassing van hierdie Deel geag dat deur daardie persoon oor bedoelde eiendom ingevolge 'n skenking beskik is: Met dien verstande dat belasting deur enige persoon betaal of betaalbaar ten opsigte van eiendom waarvoor aldus ingevolge 'n skenking deur 'n liggaam met regspersoonlikheid beskik is, uit die bates van daardie liggaam met regspersoonlikheid verhaal kan word.

(3) By die toepassing van sub-artikel (2) word dit geag dat ingevolge 'n skenking oor eiendom beskik is deur 'n liggaam met regspersoonlikheid wat deur enige persoon daartoe beweeg is, indien die Kommissaris, met inagneming van die omstandighede waaronder daardie skenking deur bedoelde liggaam met regspersoonlikheid geskied het, van oordeel is—

- (a) dat dit nie in die gewone loop van die normale inkomstegewende werksaamhede van daardie liggaam met regspersoonlikheid geskied het nie; en
- (b) dat die keuse van die begiftigde wat deur die skenking gebaat het deur daardie persoon te weeg gebring is.

Eiendom waarvoor ingevolge sekere transaksies beskik is, geag ingevolge skenkings oor beskik te gewees het, en sekere skenkings geag na die vier-en-

54sex. (1) Waar daar oor eiendom beskik is teen 'n vergoeding wat volgens die mening van die Kommissaris nie voldoende vergoeding is nie, word geag dat daar oor daardie eiendom vir die doeleindes van hierdie Deel ingevolge 'n skenking beskik is: Met dien verstande dat by die vasstelling van die waarde van sodanige eiendom 'n vermindering gemaak word van 'n bedrag gelyk aan die waarde van bedoelde vergoeding.

(2) Elke skenking wat op of na die vier-en-twintigste dag van Maart 1955 geregistreer word of waarvan die onderwerp op of na daardie datum

the twenty-fourth day of March, 1955.

to have taken effect on or after that date unless it is proved to the satisfaction of the Commissioner that the donation in question actually took effect prior to the said date.

Persons liable for the tax.

54sept. The person liable for donations tax shall be the donor: Provided that if the donor fails to pay the tax within the period prescribed in sub-section (1) of section *fifty-four oct* the donor and the donee shall be jointly and severally liable for the tax.

Payment and assessment of the tax.

54oct. (1) Donations tax shall be payable within three months or such longer period as the Commissioner may allow from the date upon which the donation in question takes effect and shall be paid to the receiver of revenue for the district within which the donor (in the case of any person other than a company) is ordinarily resident or (in the case of any company) is registered, managed or controlled.

(2) Where a donor has disposed of property under more than one donation in respect of which donations tax is payable the tax payable in respect of each such donation shall be calculated according to the order in which such donations took effect.

(3) Where a donor has disposed of property under more than one donation on the same date those donations shall, for the purpose of determining the tax payable in respect of each donation, be deemed to have taken effect—

- (a) in such order as the donor may elect; or
- (b) if the donor fails to make such an election within fourteen days after having been called upon by the Commissioner to do so, in such order as the Commissioner may determine.

(4) The payment of the tax in terms of sub-section (1) shall be accompanied by a return in such form as may be prescribed by the Commissioner.

(5) The Commissioner may at any time assess either the donor or the donee or both the donor and the donee for the amount of donations tax payable or, where the Commissioner is satisfied that the tax payable under this Part has not been paid in full, for the difference between the amount of the tax payable and the amount paid, but the payment by either of the said parties of the amount payable under such assessment shall discharge the joint obligation.

Certain references to other matters and persons deemed to include references to property disposed of under donations, the value of such property or the person by whom it is disposed of.

54nov. For the purposes of donations tax—

- (a) any reference in sub-sections (1) and (2) of section *sixty-two*, paragraphs (c) and (d) of sub-section (1) of section *sixty-three* and paragraphs (a) and (e) of section *sixty-nine* to the income of any person or to the gross income received by or accrued to or in favour of any person shall be deemed to include a reference to property disposed of by any person under a donation, or to the value of such property, as the context may require;
- (b) the reference in sub-section (2) of section *sixty-two* to any person entitled to or in receipt of any income shall be deemed to include a reference to any person who has disposed of property under a donation;
- (c) the reference in section *sixty-four* to the taxable income or income subject to super tax in relation to which any return or information is required shall be deemed to include a reference to the value of any property disposed of under a donation in relation to which the return or information is required;

twintigste
dag van
Maart 1955
in werking
te getree
het.

Persone
aanspreeklik
vir die
belasting.

Betaling en
aanslag van
die
belasting.

Sekere ver-
wysings na
ander aan-
geleenthede
en persone
geag ook
verwysings
te wees na
eiendom
waaroor
ingevolge 'n
skenking
beskik is,
die waarde
van
sodanige
eiendom of
die persoon
wat daaroor
beskik het.

gelewer word, word geag op of na daardie datum in werking te getree het, tensy dit tot bevrediging van die Kommissaris bewys word dat die onderhawige skenking werklik voor bedoelde datum in werking getree het.

54sept. Die persoon wat vir belasting op geskenke aanspreeklik is, is die skenker: Met dien verstande dat indien die skenker versuim om die belasting binne die in sub-artikel (1) van artikel *vier-en-vyfzig oct.* bepaalde tydperk te betaal, die skenker en die begiftigde gesamentlik en afsonderlik vir die belasting aanspreeklik is.

54oct. (1) Belasting op geskenke is betaalbaar binne drie maande, of sodanige langer tydperk as wat die Kommissaris mag toestaan, vanaf die datum waarop die betrokke skenking in werking tree, en moet betaal word aan die ontvanger van inkomste van die distrik waarin die skenker (in die geval van 'n ander persoon as 'n maatskappy) gewoonlik woonagtig is of (in die geval van 'n maatskappy) geregistreer is of bestuur of beheer word.

(2) Waar 'n skenker oor eiendom beskik het ingevolge meer dan een skenking ten opsigte waarvan belasting op geskenke betaalbaar is, word die belasting wat ten opsigte van elke sodanige skenking betaalbaar is, bereken ooreenkomstig die volgorde waarin sodanige skenkings in werking getree het.

(3) Waar 'n skenker op dieselfde datum oor eiendom beskik het ingevolge meer dan een skenking, word daardie skenkings, vir die doel van die vaststelling van die belasting betaalbaar ten opsigte van elke skenking, geag in werking te getree het—

(a) in die volgorde wat die skenker kies; of
(b) indien die skenker versuim om so 'n keuse te doen binne veertien dae nadat hy deur die Kommissaris aangesê is om dit te doen, in die volgorde wat die Kommissaris bepaal.

(4) Die betaling van die belasting ingevolge sub-artikel (1) moet vergesel gaan van 'n opgawe in sodanige vorm as wat die Kommissaris mag voorskryf.

(5) Die Kommissaris kan te eniger tyd of die skenker of die begiftigde of beide die skenker en die begiftigde aanslaan vir die bedrag van die belasting op geskenke wat betaalbaar is of, waar die Kommissaris oortuig is dat die belasting wat ingevolge hierdie Deel betaalbaar is, nie ten volle betaal is nie, vir die verskil tussen die bedrag van die belasting wat betaalbaar is en die bedrag wat betaal is, maar die betaling deur enigeen van bedoelde partye van die bedrag wat ingevolge sodanige aanslag betaalbaar is, wis die gesamentlike aanspreeklikheid uit.

54nov. Vir die doeleindes van belasting op geskenke—

(a) word enige verwysing in sub-artikels (1) en (2) van artikel *twee-en-sestig*, paragrafe (c) en (d) van sub-artikel (1) van artikel *drie-en-sestig* en paragrafe (a) en (e) van artikel *nege-en-sestig* na die inkomste van enige persoon of die bruto-inkomste ontvang deur of toegeval aan of ten gunste van enige persoon, geag 'n verwysing na eiendom waaroor deur enige persoon ingevolge 'n skenking beskik is, of na die waarde van sodanige eiendom, soos die samehang mag vereis, in te sluit;

(b) word die verwysing in sub-artikel (2) van artikel *twee-en-sestig* na enige persoon wat geregtig is op enige inkomste of dit ontvang, geag 'n verwysing na enige persoon wat oor eiendom ingevolge 'n skenking beskik het, in te sluit;

(c) word die verwysing in artikel *vier-en-sestig* na die belasbare inkomste of die aan superbelasting onderhawige inkomste met betrekking waartoe enige opgawe of inligting verlang word, geag 'n verwysing na die waarde van eiendom waaroor ingevolge 'n skenking beskik is met betrekking waartoe die opgawe of inligting verlang word, in te sluit;

- (d) the reference in paragraphs (b) and (c) of section *sixty-nine* to the income under the management, disposition or control of an agent or to income the subject of any trust, as the case may be, shall be deemed to include a reference to any property disposed of under a donation which is under the management, disposition or control of the agent or to property disposed of under a donation which is the subject of the trust, as the case may be;
- (e) the reference in sub-section (1) of section *seventy* to the income to which a representative taxpayer is entitled in his representative capacity, or of which in such capacity he has the management, receipt, disposal, remittance, payment or control shall be deemed to include a reference to any property disposed of under a donation of which a representative taxpayer in his representative capacity has the management, receipt, disposal, remittance, payment or control, and the reference in the said sub-section to income received by or accruing to or in favour of such a person beneficially shall be deemed to include a reference to property disposed of by such a person in his own right under a donation.

Value of
property
disposed of
under
donations.

54dec. (1) For the purposes of donations tax the value of any property shall be—

- (a) in the case of any fiduciary, usufructuary or other like interest in property, an amount determined by capitalizing at six per centum the annual value of the right of enjoyment of the property over which such interest was or is held, to the extent to which the donee becomes entitled to such right of enjoyment, over the expectation of life of the donor, or if such right of enjoyment is to be held for a lesser period than the life of the donor, over such lesser period;
- (b) in the case of any right to any annuity, an amount equal to the value of the annuity capitalized at six per centum over the expectation of life of the donor, or if such right is to be held by the donee for a lesser period than the life of the donor, over such lesser period;
- (c) in the case of a right of ownership in any movable or immovable property which is subject to a usufructuary or other like interest in favour of any person, the amount by which the fair market value of the full ownership of such property exceeds the value of such interest, determined—
- (i) in the case of a usufructuary interest, by capitalizing at six per centum the annual value of the right of enjoyment of the property subject to such usufructuary interest over the expectation of life of the person entitled to such interest, or if such right of enjoyment is to be held for a lesser period than the life of such person, over such lesser period;
- (ii) in the case of an annuity charged upon the property, by capitalizing at six per centum the amount of the annuity over the expectation of life of the person entitled to such annuity, or if it is to be held for a lesser period than the life of such person, over such lesser period; or
- (iii) in the case of any other interest, by capitalizing at six per centum such amount as the

- (d) word die verwysing in paragrawe (b) en (c) van artikel *nege-en-sestig* na die inkomste onder die bestuur, tot die beskikking of onder die beheer van 'n agent of na inkomste wat die onderwerp van 'n trust is, na gelang van die geval, geag 'n verwysing in te sluit na enige eiendom waaroor ingevolge 'n skenking beskik is wat onder die bestuur, tot die beskikking of onder die beheer van die agent is of na eiendom wat die onderwerp van die trust is, waaroor ingevolge 'n skenking beskik is, na gelang van die geval;
- (e) word die verwysing in sub-artikel (1) van artikel *sewentig* na die inkomste waarop 'n verteenwoordigende belastingpligtige in sy verteenwoordigende hoedanigheid geregtig is, of wat of waaroor hy in daardie hoedanigheid bevoeg is om te bestuur, te ontvang, te beskik, te remitteer, uit te betaal of te beheer, geag 'n verwysing in te sluit na enige eiendom waaroor ingevolge 'n skenking beskik is en ten opsigte waarvan 'n verteenwoordigende belastingpligtige in sy verteenwoordigende hoedanigheid bevoeg is om dit te bestuur of te ontvang of daarvoor te beskik of dit te remitteer, uit te betaal of te beheer en word die verwysing in genoemde sub-artikel na inkomste wat deur sodanige persoon ontvang is, of aan of ten gunste van hom toegeval het tot sy voordeel, geag 'n verwysing in te sluit na eiendom waaroor deur sodanige persoon in sy eie reg ingevolge 'n skenking beskik is.

Waarde van eiendom ingevolge skenkings van die hand gesit.

54dec. Vir die doeleindes van belasting op geskenke is die waarde van eiendom—

- (a) in die geval van 'n fidusiële reg, vruggebruik of ander dergelike reg op goed, 'n bedrag wat vasgestel word deur die jaarlikse waarde van die reg op die genot van die goed waarop so 'n reg gehou is of word, in die mate waarin die begiftigde op bedoelde reg van genot geregtig word, teen ses persent oor die vermoedelike lewensduur van die skenker, of indien bedoelde reg van genot vir 'n korter tydperk as die lewensduur van die skenker gehou moet word, oor sodanige korter tydperk te kapitaliseer;
- (b) in die geval van 'n reg op 'n jaargeld, 'n bedrag gelyk aan die waarde van die jaargeld gekapitaliseer teen ses persent oor die vermoedelike lewensduur van die skenker, of indien bedoelde reg vir 'n korter tydperk as die lewensduur van die skenker deur die begiftigde gehou moet word, oor sodanige korter tydperk;
- (c) in die geval van 'n eiendomsreg op enige roerende of onroerende goed wat onderworpe is aan 'n vruggebruik of ander dergelike reg ten gunste van 'n persoon, die bedrag waarmee die billike markwaarde van die volle eiendomsreg van bedoelde goed die waarde van bedoelde reg te bowe gaan, watter waarde vasgestel word—
- (i) in die geval van 'n vruggebruik, deur die jaarlikse waarde van die reg op die genot van die goed onderworpe aan bedoelde vruggebruik teen ses persent oor die vermoedelike lewensduur van die persoon wat op bedoelde reg geregtig is, of indien bedoelde reg van genot vir 'n korter tydperk as die lewensduur van bedoelde persoon gehou moet word, oor sodanige korter tydperk te kapitaliseer;
- (ii) in die geval van 'n jaargeld waarmee die goed beswaar is, deur die bedrag van die jaargeld teen ses persent oor die vermoedelike lewensduur van die persoon wat op die jaargeld geregtig is, of indien bedoelde jaargeld vir 'n korter tydperk as die lewensduur van bedoelde persoon gehou moet word, oor sodanige korter tydperk te kapitaliseer; of
- (iii) in die geval van enige ander reg, deur die bedrag wat die Kommissaris billik ag as

Commissioner may consider reasonable as representing the annual yield of such interest, over the expectation of life of the person entitled to such interest, or if such interest is to be held for a lesser period than the life of such person, over such lesser period;

- (d) in the case of any other property, the fair market value of such property as at the date upon which the donation takes effect: Provided that in any case in which, as a result of conditions which in the opinion of the Commissioner were imposed by or at the instance of the donor, the value of any property is reduced in consequence of the donation, the value of such property shall be determined as though the conditions in terms of which the value of the said property is reduced in consequence of the donation, had not been imposed.
- (2) For the purposes of paragraphs (a) and (c) of sub-section (1) the annual value of the right of enjoyment of a property means an amount equal to six per centum upon the value of the full ownership of the property which is subject to any fiduciary, usufructuary or other like interest: Provided that—
- (i) where it is established to the satisfaction of the Commissioner that the property which is subject to any such interest could not reasonably be expected to produce an annual yield equal to six per centum on such value of the property, the Commissioner may fix such sum as representing the annual yield as may seem to him to be reasonable, and the sum so fixed shall for the purposes of paragraph (a) of sub-section (1) be deemed to be the annual value of the enjoyment of such property;
- (ii) where the property which is subject to any such interest consists of books, pictures, statuary or other objects of art, the annual value of the right of enjoyment shall for the purposes of paragraph (a) of sub-section (1) be deemed to be the average net receipts (if any) derived by the person entitled to such right of enjoyment of such property during the three years immediately preceding the date on which the donation took effect.
- (3) Where for the purposes of sub-section (1) any calculation is required to be made over the expectation of life of any person, such calculation shall, in the case of a person who is not a natural person, be made over a period of fifty years.
- (4) If the Commissioner is of the opinion that the amount shown in any return as the fair market value of any property is less than the fair market value of such property, he may fix the fair market value of that property, and the value so fixed shall, subject to the provisions of sub-section (6), be deemed for the purposes of this Part to be the fair market value of such property.
- (5) In fixing the fair market value of any property in terms of sub-section (4), the Commissioner shall have regard *inter alia* to—
- (a) the municipal or divisional council valuation (if any) of the property concerned;
- (b) any sworn valuation of the property concerned furnished by or on behalf of the donor or the donee;
- (c) any valuation of the property concerned made by any competent and disinterested person appointed by the Commissioner.
- (6) The decision of the Commissioner in the exercise of his discretion under sub-section (3) of section *fifty-four quin.*, sub-section (2) of section *fifty-four sex.* or sub-paragraph (iii) of paragraph (c) or the proviso to paragraph (d) of sub-section (1) or sub-section (4) of this section, shall be subject to objection and appeal.

voorstellende die jaarlikse opbrengs van bedoelde reg teen ses persent oor die vermoedelike lewensduur van die persoon wat op bedoelde reg geregtig is, of indien bedoelde reg vir 'n korter tydperk as die lewensduur van bedoelde persoon gehou moet word, oor sodanige korter tydperk te kapitaliseer;

- (d) in die geval van enige ander eiendom, die billike markwaarde van bedoelde eiendom op die datum waarop die skenking in werking tree: Met dien verstande dat in 'n geval waar, ten gevolge van voorwaardes wat volgens die mening van die Kommissaris deur of in opdrag van die skenker opgelê is, die waarde van enige eiendom as gevolg van die skenking verminder het, die waarde van bedoelde eiendom vasgestel word asof die voorwaardes ingevolge waarvan die waarde van bedoelde eiendom as gevolg van die skenking verminder het, nie opgelê was nie.

(2) Vir die doeleindes van paragrawe (a) en (c) van sub-artikel (1), beteken die jaarlikse waarde van die reg op die genot van goed, 'n bedrag gelyk aan ses persent van die waarde van die volle eiendomsreg op die goed wat aan 'n fidusiêre reg, vruggebruik of ander dergelike reg onderworpe is: Met dien verstande dat—

- (i) waar dit na oortuiging van die Kommissaris bewys word dat die goed wat aan so 'n reg onderworpe is, nie redelikerwys verwag kan word om 'n jaarlikse opbrengs gelyk aan ses persent van bedoelde waarde van die goed op te lewer nie, die Kommissaris so 'n som kan vasstel as wat na sy oordeel billikerwys die jaarlikse opbrengs voorstel, en die aldus vasgestelde som by die toepassing van paragraaf (a) van sub-artikel (1) geag word die jaarlikse waarde van die genot van bedoelde goed te wees;
- (ii) waar die goed wat aan so 'n reg onderworpe is, uit boeke, skilderye, standbeelde of ander kunsvoorwerpe bestaan, die jaarlikse waarde van die reg van genot vir die doeleindes van paragraaf (a) van sub-artikel (1) geag word die gemiddelde netto-ontvangste (as daar is) te wees wat deur die persoon wat op bedoelde reg van genot op bedoelde goed geregtig was, gedurende die drie jaar onmiddellik voor die datum waarop die skenking in werking getree het, verkry is.

(3) Wanneer 'n berekening vir die doeleindes van sub-artikel (1) oor die vermoedelike lewensduur van 'n persoon gemaak moet word, word bedoelde berekening in die geval van 'n persoon wat nie 'n natuurlike persoon is nie, oor 'n tydperk van vyftig jaar gemaak.

(4) Indien die Kommissaris van oordeel is dat die bedrag wat in 'n opgawe as die billike markwaarde van eiendom aangegee word, minder is as die billike markwaarde van bedoelde eiendom, kan hy die billike markwaarde van daardie eiendom vasstel, en die aldus vasgestelde waarde word, behoudens die bepalinge van sub-artikel (6), vir die doeleindes van hierdie Deel geag die billike markwaarde van bedoelde eiendom te wees.

(5) By die vasstelling van die billike markwaarde van eiendom ingevolge sub-artikel (4), moet die Kommissaris onder meer rekening hou met—

- (a) die munisipale of afdelingsraadswaardering (as daar is) van die betrokke eiendom;
- (b) enige beëdigde waardering van die betrokke eiendom wat deur of namens die skenker of begiftigde verskaf word;
- (c) enige waardering van die betrokke eiendom gemaak deur 'n deur die Kommissaris aangestelde bevoegde en onpartydige persoon.

(6) Die beslissing van die Kommissaris by die uitoefening van sy diskresie ingevolge sub-artikel (3) van artikel vier-en-vyftig *quin.*, sub-artikel (2) van artikel vier-en-vyftig *sex.* of sub-paragraaf (iii) van paragraaf (c) of die voorbehoudsbepaling by paragraaf (d) van sub-artikel (1) of sub-artikel (4) van hierdie artikel, is aan beswaar en appèl onderhewig.

(7) The Governor-general may make regulations as to the valuation of annuities or of fiduciary, usufructuary or other limited interests in property.

Rate of donations tax.

54undec. The rate of the donations tax shall be as follows:

Cumulative Taxable Value of Property Disposed of under Donations.				Rate of Tax.
				per centum.
On so much of the cumulative taxable value of property disposed of by the donor under donations—				
as does not exceed £4,000				3
as exceeds	£4,000 but does not exceed	£5,000		4
"	£5,000	"	£6,000	5
"	£6,000	"	£7,000	6
"	£7,000	"	£8,000	7
"	£8,000	"	£9,000	8
"	£9,000	"	£10,000	9
"	£10,000	"	£11,000	10
"	£11,000	"	£12,000	11
"	£12,000	"	£13,000	12
"	£13,000	"	£14,000	13
"	£14,000	"	£16,000	14
"	£16,000	"	£18,000	15
"	£18,000	"	£20,000	16
"	£20,000	"	£22,000	17
"	£22,000	"	£24,000	18
"	£24,000	"	£26,000	19
"	£26,000	"	£28,000	20
"	£28,000	"	£30,000	21
"	£30,000	"	£35,000	22
"	£35,000	"	£40,000	23
"	£40,000	"	£45,000	24
"	£45,000	"		25

Date of commencement of Part VI.

54duoac. This Part shall be deemed to have come into operation on the twenty-fourth day of March, 1955."

Amendment of section 85 of Act 31 of 1941, as amended by section 18 of Act 34 of 1942 and section 8 of Act 34 of 1953.

11. Section *eighty-five* of the principal Act is hereby amended by the addition to sub-section (1) of the following paragraph:

"(c) The Commissioner may institute proceedings for the sequestration of the estate of any taxpayer and shall, for the purposes of such proceedings, be deemed to be the creditor in respect of any tax due by such taxpayer."

Amendment of First Schedule to Act 31 of 1941, as amended by section 19 of Act 34 of 1942.

12. (1) The First Schedule to the principal Act is hereby amended by the insertion in sub-paragraph (b) of paragraph (4) after the word "amounts" of the words "(excluding such investment income as consists of dividends)".

(2) The amendment effected by sub-section (1) shall be deemed to have come into operation on the first day of July, 1950.

Amendment of long title of Act 31 of 1941.

13. The long title of the principal Act is hereby amended by the substitution for the words "incomes and to consolidate and amend the law relating thereto" of the words "incomes, to consolidate and amend the law relating thereto and to provide for the taxation of donations".

Amendment of section 2 of Act 34 of 1953.

14. Section *two* of the Income Tax Act, 1953 (Act No. 34 of 1953), is hereby amended, with effect from the date of commencement of the said section—

(a) by the addition at the end of paragraph (a) of sub-section (6) of the following proviso:

"Provided that in the event of the death, insolvency or liquidation (in the case of a company) of the person concerned before the issue of such certificate, the Commissioner may instead of issuing such certificate repay to the estate of such person or the company in liquidation the amount paid by the person concerned in respect of any loan portions of the normal and super tax together with interest at the rate of four per centum per annum on each completed one pound of such amount calculated from the date of payment of such amount by such person to the date on which the said amount is repaid by the Commissioner in terms of this proviso.";

(7) Die Goewerneur-generaal kan regulasies uitvaardig betreffende die waardering van jaargelde of van fidusiële regte, regte van vruggebruik of ander beperkte regte op goed.

Skaal van belasting op geskenke. **54undec.** Die skaal van belasting op geskenke is as volg:

Kumulatiewe Belasbare Waarde van Eiendom waaroor ingevolge Skenkings beskik word.	Skaal van Belasting.
	persent
Op soveel van die kumulatiewe belasbare waarde van eiendom waaroor ingevolge skenk- kings deur die skenker beskik word as wat—	
£4,000 nie te bowe gaan nie.	3
£4,000, maar nie £5,000 te bowe gaan nie	4
£5,000, " " £6,000 " " " "	5
£6,000, " " £7,000 " " " "	6
£7,000, " " £8,000 " " " "	7
£8,000, " " £9,000 " " " "	8
£9,000, " " £10,000 " " " "	9
£10,000, " " £11,000 " " " "	10
£11,000, " " £12,000 " " " "	11
£12,000, " " £13,000 " " " "	12
£13,000, " " £14,000 " " " "	13
£14,000, " " £16,000 " " " "	14
£16,000, " " £18,000 " " " "	15
£18,000, " " £20,000 " " " "	16
£20,000, " " £22,000 " " " "	17
£22,000, " " £24,000 " " " "	18
£24,000, " " £26,000 " " " "	19
£26,000, " " £28,000 " " " "	20
£28,000, " " £30,000 " " " "	21
£30,000, " " £35,000 " " " "	22
£35,000, " " £40,000 " " " "	23
£40,000, " " £45,000 " " " "	24
£45,000 te bowe gaan	25

Datum van inwerking-treding van Deel VI. **54duodec.** Hierdie Deel word geag op die vier-en-twintigste dag van Maart 1955 in werking te getree het."

11. Artikel vyf-en-tagtig van die Hoofwet word hiermee gewysig deur die volgende paragraaf by sub-artikel (1) by te voeg:

„(c) Die Kommissaris kan 'n aksie instel vir die sekwestrasie van die boedel van 'n belastingpligtige en word vir die doeleindes van so 'n aksie geag die skuldeiser te wees ten opsigte van enige belasting deur sodanige belastingpligtige verskuldig."

Wysiging van artikel 85 van Wet 31 van 1941, soos gewysig deur artikel 18 van Wet 34 van 1942 en artikel 8 van Wet 34 van 1953.

12. (1) Die Eerste Bylae by die Hoofwet word hiermee gewysig deur in sub-paragraaf (b) van paragraaf (4) na die woord „bedrae” die woorde „(met uitsluiting van sodanige ontvangste uit beleggings as wat uit diwidende bestaan)” in te voeg.

Wysiging van Eerste Bylae by Wet 31 van 1941, soos gewysig deur artikel 19 van Wet 34 van 1942.

(2) Die wysiging deur sub-artikel (1) aangebring, word geag op die eerste dag van Julie 1950 in werking te getree het.

13. Die lang titel van die Hoofwet word hiermee gewysig deur die woorde „inkomstes en om die wette dienaangaande te konsolideer en te wysig” deur die woorde „inkomstes, om die wette dienaangaande te konsolideer en te wysig en om voorsiening te maak vir die belasting van geskenke” te vervang.

Wysiging van lang titel van Wet 31 van 1941.

14. Artikel twee van die Inkomstebelastingwet, 1953 (Wet No. 34 van 1953), word hiermee, met ingang van die datum van inwerkingtreding van genoemde artikel, gewysig—

Wysiging van artikel 2 van Wet 34 van 1953.

(a) deur aan die end van paragraaf (a) van sub-artikel (6) die volgende voorbehoudsbepaling by te voeg:

„Met dien verstande dat in die geval van die dood, insolvensie of likwidasië (in die geval van 'n maatskappy) van die betrokke persoon voor die uitreiking van so 'n sertifikaat, die Kommissaris in plaas van so 'n sertifikaat uit te reik die bedrag wat deur die betrokke persoon ten opsigte van enige leningsgedeeltes van die normale en superbelasting betaal is, aan laasgenoemde se boedel of die maatskappy wat gelikwideer word, kan terugbetaal tesame met rente teen die koërs van vier persent per jaar op elke volle pond van sodanige bedrag, bereken vanaf die datum van betaling van sodanige bedrag deur bedoelde persoon tot die datum waarop bedoelde bedrag ingevolge hierdie voorbehoudsbepaling deur die Kommissaris terugbetaal word.”;

- (b) by the substitution in paragraph (b) of the said sub-section for the words "shall be entitled to a certificate" of the words "or his estate or (in the case of a company) the company in liquidation shall be entitled to a certificate or repayment, as the case may be";
- (c) by the substitution for paragraphs (c) to (e) of the said sub-section of the following paragraphs:
 - "(c) A certificate issued in terms of paragraph (a) shall not be transferable and shall, save in such special circumstances and on such conditions as the Governor-General may prescribe, not be redeemable until the expiry of a period of five years from the date of payment of the amount in respect of which such certificate has been issued: Provided that if in the opinion of the Commissioner the circumstances of the case warrant such action he may, subject to such conditions as he may impose, pay the amount due under any certificate to a person other than the person to whom that certificate was issued in terms of paragraph (a).
 - (d) Upon expiry of the period referred to in paragraph (c), the relevant certificate shall become redeemable forthwith and may be redeemed in such manner as the Governor-General may prescribe.
 - (e) Any such certificate shall bear simple interest at the rate of four per centum per annum for the period referred to in paragraph (c) on each completed one pound of the amount of the loan portion of the normal and super tax in respect of which such certificate has been issued, which interest may be included in the face value of the certificate and shall not be payable before the date on which such certificate is redeemed.
 - (e)bis. Where the amount, in respect of which any certificate has, or would but for the proviso to paragraph (a) have been, issued, was paid by instalments, the date of payment of the last of such instalments shall for the purposes of this sub-section be deemed to be the date of payment of that amount.
 - (e)ter. Notwithstanding anything to the contrary in any other law contained, no stamp duty shall be payable in respect of any receipt given by any person for the payment to him of any amount in terms of the proviso to paragraph (a) or upon the redemption of any certificate which has been issued in terms of this sub-section."

Persons discharged from liability in respect of unpaid loan portions of normal and super tax un-assessed as at 1st July, 1955.

Commencement of certain amendments.

Short title.

15. Notwithstanding the provisions of sections *one* and *two* of the Income Tax Act, 1953 (Act No. 34 of 1953), no person shall be liable for the payment of any unpaid amount of the loan portions of the normal and super tax referred to in the said section *two* which has not been assessed by the Commissioner at the first day of July, 1955.

16. The amendments effected by section *two*, paragraph (a) of section *four*, paragraph (b) of section *five* and sections *six*, *eight* and *nine* shall first take effect in respect of assessments for the year of assessment ending upon the thirtieth day of June, 1955.

17. This Act shall be called the Income Tax Act, 1955.

- (b) deur in paragraaf (b) van genoemde sub-artikel die woorde „slegs ten opsigte van die restant (as daar is) van die betaalde bedrag wat nie aldus toegewys is nie, geregtig op 'n sertifikaat” deur die woorde „of sy boedel of (in die geval van 'n maatskappy) die maatskappy wat gelikwieder word slegs ten opsigte van die restant (as daar is) van die betaalde bedrag wat nie aldus toegewys is nie, geregtig op 'n sertifikaat of terugbetaling, na gelang van die geval”, te vervang;
- (c) deur paragrafe (c) tot (e) van genoemde sub-artikel deur die volgende paragrafe te vervang:
- „(c) 'n Ingevolge paragraaf (a) uitgereikte sertifikaat is nie oordraagbaar nie en is, behalwe onder die spesiale omstandighede en op die voorwaardes wat die Goewerneur-generaal mag voorskryf, nie voor die verloop van 'n tydperk van vyf jaar vanaf die datum van betaling van die bedrag ten opsigte waarvan die sertifikaat uitgereik is, aflosbaar nie: Met dien verstande dat as na die mening van die Kommissaris die omstandighede van die geval sodanige optrede regverdig, hy, onderworpe aan die voorwaardes wat hy mag oplê, die bedrag wat volgens 'n sertifikaat betaalbaar is, aan 'n ander persoon as die persoon aan wie die sertifikaat ingevolge paragraaf (a) uitgereik is, kan betaal.
- (d) Na verloop van die in paragraaf (c) bedoelde tydperk, word die betrokke sertifikaat onmiddellik aflosbaar en kan dit op die wyse wat die Goewerneur-generaal mag voorskryf, afgelos word.
- (e) So 'n sertifikaat gee enkelvoudige rente teen die koers van vier persent per jaar vir die in paragraaf (c) bedoelde tydperk op elke volle pond van die bedrag van die leningsgedeelte van die normale en superbelasting ten opsigte waarvan sodanige sertifikaat uitgereik is, welke rente by die nominale waarde van die sertifikaat ingesluit kan word en nie voor die datum waarop sodanige sertifikaat afgelos word, betaalbaar is nie.
- (e)bis. Waar die bedrag ten opsigte waarvan 'n sertifikaat uitgereik is of, as dit nie vir die voorbehoudsbepaling by paragraaf (a) was nie, uitgereik sou gewees het, in paalemente betaal is, word die datum van betaling van die laaste van sodanige paalemente vir die doeleindes van hierdie sub-artikel geag die datum van betaling van daardie bedrag te wees.
- (e)ter. Ondanks andersluidende wetsbepalings, is geen seëlregte betaalbaar nie ten opsigte van 'n kwitansie wat gegee word deur 'n persoon vir die betaling van 'n bedrag aan hom kragtens die voorbehoudsbepaling by paragraaf (a) of by die aflossing van 'n sertifikaat wat ingevolge hierdie sub-artikel uitgereik is.”.

15. Ondanks die bepalinge van artikels *een* en *twee* van die Inkomstebelastingwet, 1953 (Wet No. 34 van 1953), is niemand aanspreeklik vir die betaling van enige onbetaalde bedrag van die leningsgedeeltes van die normale en superbelasting in gemelde artikel *twee* bedoel wat op die eerste dag van Julie 1955 nie deur die Kommissaris aangeslaan is nie.

Persone onthef van aanspreeklikheid ten opsigte van onbetaalde leningsgedeeltes van normale en superbelasting wat op 1 Julie 1955 nie aangeslaan is nie.

16. Die wysigings deur artikel *twee*, paragraaf (a) van artikel *vier*, paragraaf (b) van artikel *vyf* en artikels *ses*, *agt* en *nege* aangebring, tree vir die eerste maal in werking ten opsigte van aanslae vir die jaar van aanslag wat op die dertigste dag van Junie 1955 eindig.

Inwerking-treding van sekere wysigings.

17. Hierdie Wet heet die Inkomstebelastingwet, 1955.

Kort titel.

No. 45, 1955.]

ACT

To impose an estate duty upon the estates of deceased persons, to repeal the Death Duties Act, 1922, and to provide for matters incidental thereto.

(English text signed by the Governor-General.)
(Assented to 15th June, 1955.)

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

Definitions.

1. In this Act and in any regulations made thereunder, unless the context otherwise indicates—

- (i) "administration and distribution account" means the account required to be rendered by the executor to a Master in accordance with section *sixty-eight* of the Administration of Estates Act, 1913 (Act No. 24 of 1913), in respect of the administration of the estate of which he is the executor; (i)
- (ii) "Commissioner" means the Commissioner for Inland Revenue; (v)
- (iii) "company" includes any association incorporated or registered under any law in force in the Union and any association which, although not so incorporated or registered, carries on business or has an office or place of business or maintains a share transfer register in the Union; (vi)
- (iv) "duty" means estate duty payable under this Act; (ii)
- (v) "executor" means any person to whom letters of administration have been granted by a Master in respect of the estate of a deceased person under any law relating to the administration of estates, and includes a person acting or authorized to act under letters of administration granted outside the Union but signed and sealed by a Master for use within the Union and, in any case where the estate is not required to be administered under the supervision of the Master, the person administering the estate; (iv)
- (vi) "Master" in relation to any matter, property or estate, means the Master or Assistant Master of the Supreme Court appointed under the Administration of Estates Act, 1913, who has jurisdiction in respect of that matter, property or estate; (vii)
- (vii) "stocks or shares" in relation to any company means any part of the share capital of that company and includes any debenture, debenture stock or any other like form of marketable security. (iii)

Levy of estate duty.

2. (1) There shall be charged, levied and collected in respect of the estate of every person who dies on or after the first day of April, 1955, a duty to be known as an estate duty.

(2) Estate duty shall be charged upon the dutiable amount of the estate calculated in accordance with the provisions of this Act, and shall be levied at the rates set out in the First Schedule.

What constitutes an estate.

3. (1) For the purposes of this Act the estate of any person shall consist of all property of that person as at the date of his death and of all property which in accordance with this Act is deemed to be property of that person at that date.

(2) "Property" means any right in or to property, movable or immovable, corporeal or incorporeal, and includes—

- (a) any fiduciary, usufructuary or other like interest in property (including a right to an annuity charged upon property) held by the deceased immediately prior to his death;
- (b) any right to an annuity (other than a right to an annuity charged upon any property) enjoyed by the deceased

No. 45, 1955.]

WET

Om 'n boedelbelasting op die boedels van afgestorwe persone te hef, om die „Sterfrechten Wet, 1922”, te herroep, en om vir daarmee in verband staande aangeleenthede voorsiening te maak.

(Engelse teks deur die Goewerneur-generaal geteken.)
(Goedgekeur op 15 Junie 1955.)

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

1. Tensy uit die samehang anders blyk, beteken in hierdie **Woordbepaling.**
5 Wet en enige uit hoofde daarvan uitgevaardigde regulasies—

- (i) „administrasie- en distribusierekening” die rekening wat ooreenkomstig artikel *agt-en-sestig* van die Boedelwet, 1913 (Wet No. 24 van 1913), deur die eksekuteur ten opsigte van die administrasie van die boedel waarvan hy die eksekuteur is, by 'n Meester ingedien moet word; (i)
- (ii) „belasting” die ingevolge hierdie Wet betaalbare boedelbelasting; (iv)
- (iii) „effekte of aandele” met betrekking tot 'n maatskappy, 'n gedeelte van die aandele-kapitaal van bedoelde maatskappy en ook enige obligasie, obligasie-effekte of enige ander dergelike soort verhandelbare effekte; (vii)
- (iv) „eksekuteur” iemand aan wie briewe van administrasie ten opsigte van die boedel van 'n afgestorwe persoon ingevolge 'n wetsbepaling met betrekking tot die administrasie van boedels deur 'n Meester uitgereik is, en ook iemand wat uit hoofde van briewe van administrasie wat buite die Unie uitgereik maar deur 'n Meester vir gebruik in die Unie onder sy ampseël onderteken is, optree of gemagtig word om op te tree en, in 'n geval waar die boedel nie onder toesig van die Meester geadministreer hoef te word nie, die persoon wat die boedel administreer; (v)
- (v) „Kommissaris” die Kommissaris van Binnelandse Inkomste; (ii)
- (vi) „maatskappy” ook 'n vereniging wat ingevolge 'n in die Unie geldende wetsbepaling geïnkorporeer of geregistreer is, en 'n vereniging wat, alhoewel nie aldus geïnkorporeer of geregistreer nie, in die Unie besigheid doen of 'n kantoor of besigheidsplek het of 'n aandele-oordragregister in stand hou; (iii)
- (vii) „Meester” met betrekking tot enige aangeleentheid, goed of boedel, die Meester of Assistent-meester van die Hooggeregshof wat kragtens die Boedelwet, 1913, aangestel is en wat ten opsigte van bedoelde aangeleentheid, goed of boedel, met regsbevoegdheid bekleed is. (vi)

2. (1) Daar word ten opsigte van die boedel van iedere persoon wat op of na die eerste dag van April 1955 te sterwe kom, 'n belasting bekend as 'n boedelbelasting opgelê, gehef en ingevorder. **Heffing van boedelbelasting.**

(2) Boedelbelasting word opgelê op die belasbare bedrag van die boedel wat ooreenkomstig die bepalinge van hierdie Wet bereken word, en word gehef volgens die skale in die Eerste Bylae uiteengesit.

3. (1) By die toepassing van hierdie Wet bestaan die boedel van 'n persoon uit al die eiendom van daardie persoon op die datum van sy dood en uit alle eiendom wat ooreenkomstig hierdie Wet geag word eiendom van daardie persoon op bedoelde datum te wees. **Wat 'n boedel behels.**

(2) „Eiendom” beteken enige reg op goed, hetsy roerend of onroerend, liggaamlik of onliggaamlik, en ook—

- (a) enige fidusiêre reg, vruggebruik of ander dergelike reg op eiendom (met inbegrip van 'n reg op 'n jaargeld waarmee goed beswaar is) wat die oorledene onmiddellik voor sy dood besit het;
- (b) enige reg op 'n jaargeld (behalwe 'n reg op 'n jaargeld waarmee enige goed beswaar is) wat die oorledene

immediately prior to his death which accrued to some other person on the death of the deceased, but does not include—

- (c) any right in immovable property situate outside the Union;
- (d) any right in movable property physically situate outside the Union if the deceased was not ordinarily resident in the Union;
- (e) any debt not recoverable or right of action not enforceable in the Courts of the Union, other than any such debt or right of action in respect of any amount standing to the credit of the deceased at the date of his death with any bank, building society or other institution outside the Union, if the deceased was ordinarily resident in the Union, or any debt secured upon immovable property by bond registered in the Union;
- (f) any goodwill, licence, patent, design, trade mark, copyright or other similar right not registered or enforceable in the Union or attaching to any trade, business or profession in the Union;
- (g) any stocks or shares in any body corporate which is not a company or any stocks or shares in a company held by a deceased who was not ordinarily resident in the Union, provided any transfer whereby any change of ownership in such stocks or shares is recorded is not required to be registered in the Union;
- (h) any rights to any income produced by or proceeds derived from any property referred to in paragraph (e), (f) or (g).

(3) Property which is deemed to be property of the deceased includes—

- (a) so much of any amount due and recoverable under any policy of insurance which is a "Union policy" as defined in section one of the Insurance Act, 1943 (Act No. 27 of 1943), upon the life of the deceased, other than a policy the amount due under which is recoverable by the surviving spouse or child of the deceased under a duly registered ante-nuptial or post-nuptial contract, as exceeds the aggregate amount of any premiums or consideration proved to the satisfaction of the Commissioner to have been paid by any person who is entitled to the amount due under the policy, together with interest at six per cent. per annum calculated upon such premiums or consideration from the date of payment to the date of death;
- (b) any property donated under a *donatio mortis causa*;
- (c) any property donated under a donation (other than a donation to a spouse under a duly registered ante-nuptial or post-nuptial contract or a *donatio mortis causa*) made—
 - (i) in the case of a deceased not referred to in subparagraph (ii), by the deceased; or
 - (ii) in the case of a deceased who was married in community of property, by the deceased or by a spouse who was so married to the deceased to the extent to which the property would, if it had not been donated, have formed part of the estate of the deceased; or
 - (iii) by a body corporate, if such property is in terms of sub-section (2) of section *fifty-four quin* of the Income Tax Act, 1941 (Act No. 31 of 1941), deemed to have been disposed of under a donation by the deceased,

unless—

- (aa) such donation took effect prior to the twenty-fourth day of March, 1955, and in the case of a donation made at any time during the period from the first day of April, 1951, to the twenty-third day of March, 1955 (both days inclusive), more than five years prior to the death of the deceased; or
- (bb) such donation takes effect on or after the twenty-fourth day of March, 1955, and is exempt from donations tax in terms of paragraph (a) or (c) of sub-section (2) of section *fifty-four quat* of the Income Tax Act, 1941 (Act No. 31 of 1941), or, unless such donation took effect prior to the said date and would have been exempt from donations tax in terms of the said paragraphs if the

onmiddellik voor sy dood besit het en wat by die dood van die oorledene aan iemand anders toegeval het, maar nie ook—

- (c) 'n reg op onroerende goed buite die Unie geleë nie;
- (d) 'n reg op roerende goed liggaamlik buite die Unie geleë indien die oorledene nie sy gewone verblyfplek in die Unie gehad het nie;
- (e) 'n skuld of reg van aksie wat nie in die geregshoue van die Unie verhaalbaar of afdwingbaar is nie, behalwe so 'n skuld of reg van aksie ten opsigte van enige bedrag wat op krediet van die oorledene by sy dood by enige bank, bouvereniging of ander inrigting buite die Unie staan, indien die oorledene sy gewone verblyfplek in die Unie gehad het, of 'n skuld wat deur verband op onroerende goed in die Unie geregistreer, verseker is;
- (f) enige klandisiewaarde, lisensie, patent, model, handelsmerk, outeursreg of ander dergelike reg wat nie in die Unie geregistreer of afdwingbaar is nie of nie aan 'n handelsaak, besigheid of beroep in die Unie verbonde is nie;
- (g) enige effekte of aandele in 'n regspersoon wat nie 'n maatskappy is nie, of enige effekte of aandele in 'n maatskappy wat gehou is deur 'n oorledene wat nie sy gewone verblyfplek in die Unie gehad het nie, mits 'n oordrag waarin 'n verandering in die eiendomsreg op sulke effekte of aandele aangeteken word, nie in die Unie geregistreer moet word nie;
- (h) enige regte op die inkomste van of die opbrengs uit enige eiendom bedoel in paragraaf (e), (f) of (g).

(3) Eiendom wat geag word die eiendom van die oorledene te wees omvat—

- (a) soveel van enige bedrag wat verskuldig en verhaalbaar is ingevolge 'n assuransiepolis wat 'n „binnelandse polis” soos omskryf in artikel een van die Versekeringwet, 1943 (Wet No. 27 van 1943), op die lewe van die oorledene is, behalwe 'n polis waarvan die verskuldigde bedrag deur die langselewende eggenoot of kind van die oorledene uit hoofde van 'n behoorlik geregistreerde voor- of na-huwelikse kontrak verhaalbaar is, as wat die totale bedrag van enige premies of vergoeding wat tot bevrediging van die Kommissaris bewys van betaal te gewees het deur 'n persoon wat geregtig is op die bedrag wat ingevolge die polis verskuldig is, saam met rente teen ses persent per jaar bereken op sodanige premies of vergoeding vanaf die datum van betaling tot die datum van dood te bowe gaan;
- (b) eiendom ingevolge 'n *donatio mortis causa* geskenk;
- (c) eiendom geskenk ingevolge 'n skenking (behalwe 'n skenking aan 'n eggenoot ingevolge 'n behoorlik geregistreerde voor- of na-huwelikse kontrak of 'n *donatio mortis causa*) gemaak—
 - (i) in die geval van 'n oorledene nie in sub-paragraaf (ii) bedoel nie, deur die oorledene; of
 - (ii) in die geval van 'n oorledene wat in gemeenskap van goed getroud was, deur die oorledene of deur 'n eggenoot aldus met die oorledene getroud, in die mate wat die eiendom, indien dit nie geskenk was nie, deel van die oorledene se boedel sou uitgemaak het; of
 - (iii) deur 'n regspersoon, indien ingevolge sub-artikel (2) van artikel vier-en-veertig *quin* van die Inkomstebelastingwet, 1941 (Wet No. 31 van 1941), geag word dat oor bedoelde eiendom deur die oorledene ingevolge 'n skenking beskik is,

tensy—

- (aa) bedoelde skenking voor die vier-en-twintigste dag van Maart 1955 en, in die geval van 'n skenking wat te eniger tyd gedurende die tydperk vanaf die eerste dag van April 1951 tot en met die drie-en-twintigste dag van Maart 1955 gemaak is, meer as vyf jaar voor die dood van die oorledene in werking getree het; of
- (bb) bedoelde skenking op of na die vier-en-twintigste dag van Maart 1955 in werking tree en ingevolge paragraaf (a) of (c) van sub-artikel (2) van artikel vier-en-veertig *quat* van die Inkomstebelastingwet, 1941 (Wet No. 31 van 1941), van belasting op geskenke vrygestel is of, tensy bedoelde skenking voor genoemde datum in werking getree het en ingevolge bedoelde para-

- provisions thereof had been in force on the date on which the donation took effect; or
- (cc) such donation was made to a person who pre-deceased the donor, other than a child referred to in paragraph (iii) of the first proviso to the First Schedule;
- (d) any property held by or registered in the name of an individual or a body corporate or un-incorporate and of which or of the profits derivable from which the deceased directly or indirectly and for his own benefit had the control or right of disposition.
- (4) For the purposes of paragraph (c) of sub-section (3)—
- (a) any disposition whereby any person becomes entitled to receive or acquire any property, for a consideration which, in the opinion of the Commissioner, is not a full consideration for that property, shall, to the extent to which the fair market value of the property exceeds the said consideration, be deemed to be a donation;
- (b) any disposition of property to a trustee to be administered by him for the benefit of any beneficiary mentioned in the trust deed, shall be deemed to be a donation of that property to the trustee;
- (c) a donation shall be deemed to take effect upon the date upon which the donee becomes entitled to the property donated or, where delivery of property has been made under a donation which has not been registered or notarially executed, the date upon which the right of recovery of the excess in value over five hundred pounds, becomes prescribed or, if the deceased has by the deed of donation or otherwise retained the right to revoke or to vary any rights conferred by the donation, the date upon which such right is terminated.

Dutiable amount
of an estate.

4. The dutiable amount of any estate shall be determined by making the following deductions from the total value of all property included therein in accordance with section *three*, that is to say—

- (a) so much of the funeral and death-bed expenses of the deceased which the Commissioner considers to be fair and reasonable;
- (b) all debts due by the deceased to persons ordinarily resident within the Union which it is proved to the satisfaction of the Commissioner have been discharged from property included in the estate;
- (c) all costs which have been allowed by the Master in the administration and liquidation of the estate, other than expenses incurred in the management and control of any income accruing to the estate after the date of death;
- (d) all expenditure incurred in carrying out the requirements of the Master or the Commissioner in pursuance of the provisions of this Act;
- (e) any amount of any death duties chargeable by any other State in respect of any property included in the estate consisting of—
- (i) any right in movable property physically situate outside the Union;
- (ii) any amount standing to the credit of the deceased with any bank, building society or other institution outside the Union; or
- (iii) any debt secured upon immovable property by bond registered in the Union included in the estate under paragraph (e) of sub-section (2) of section *three*;
- (f) any debts due by the deceased to persons ordinarily resident outside the Union which have been discharged from property included in the estate to the extent that the amount of such debts is proved to the satisfaction of the Commissioner to exceed the value of any assets of the deceased outside the Union and not so included;
- (g) the value of any interest included as property of the deceased under paragraph (a) of sub-section (2) of section *three* where such interest was held by the deceased by virtue of a donation to him by the person

grawe van belasting op geskenke vrygestel sou gewees het indien die bepalings daarvan van krag was op die datum waarop die skenking in werking getree het; of

(cc) bedoelde skenking gemaak is aan 'n persoon wat voor die skenker te sterwe gekom het, behalwe 'n kind bedoel in paragraaf (iii) van die eerste voorbehoudsbepaling by die Eerste Bylae;

(d) eiendom wat gehou word deur of geregistreer is op naam van 'n individu of 'n liggaam met of sonder regspersoonlikheid en waaroor of oor die winste waarvan die oorledene regstreeks of onregstreeks en vir sy eie voordeel die beheer of beskikkingsreg gehad het.

(4) By die toepassing van paragraaf (c) van sub-artikel (3)—

(a) word 'n beskikking waarvolgens iemand geregtig word om eiendom teen 'n vergoeding te ontvang of te verkry wat, na oordeel van die Kommissaris, nie 'n voldoende vergoeding vir daardie eiendom is nie, geag 'n skenking te wees in die mate wat die billike markwaarde van die eiendom, bedoelde vergoeding te bowe gaan;

(b) word 'n beskikking van eiendom aan 'n trustee om geadministreer te word ten voordele van 'n in die trustakte vermelde begunstigde, geag 'n skenking van bedoelde eiendom aan die trustee te wees;

(c) word 'n skenking geag in werking te tree op die datum waarop die begiftigde op die geskenkte eiendom geregtig word of, waar lewering van eiendom gedoen is ingevolge 'n skenking wat nie geregistreer of voor 'n notaris verly is nie, op die datum waarop die reg op die terugvordering van soveel as wat vyfhonderd pond se waarde te bowe gaan deur verjaring verval of, indien die oorledene volgens die skenkingsakte of andersins die reg voorbehou het om die by die skenking verleende regte te herroep of te wysig, op die datum waarop bedoelde reg verval.

4. Die belasbare bedrag van 'n boedel word bepaal deur die volgende kortings op die totale waarde van alle eiendom wat ooreenkomstig artikel *drie* daarby ingesluit is, te doen, dit wil sê—

Belasbare
bedrag van
boedel.

(a) soveel van die begrafnis- en sterfbed-onkoste van die oorledene as wat die Kommissaris redelik en billik ag;

(b) alle skulde wat deur die oorledene verskuldig is aan persone wat hulle gewone verblyfplek in die Unie het en wat tot bevrediging van die Kommissaris bewys word, gedelg te gewees het uit eiendom in die boedel ingesluit;

(c) alle koste wat die Meester in verband met die administrasie en likwidasie van die boedel toegelaat het, behalwe uitgawes aangegaan in verband met die bestuur van en beheer oor inkomste wat na die datum van dood aan die boedel toegeval het;

(d) alle uitgawes aangegaan in verband met die nakoming van die vereistes van die Meester of die Kommissaris ingevolge die bepalings van hierdie Wet;

(e) enige bedrag aan sterfregte wat deur 'n ander Staat hefbaar is ten opsigte van eiendom wat in die boedel ingesluit is en wat bestaan uit—

(i) 'n reg op roerende goed liggaamlik buite die Unie geleë;

(ii) 'n bedrag wat op krediet van die oorledene by enige bank, bouvereniging of ander inrigting buite die Unie staan; of

(iii) 'n skuld wat deur verband op onroerende goed in die Unie geregistreer, verseker is en wat ingevolge paragraaf (e) van sub-artikel (2) van artikel *drie*, in die boedel ingesluit is;

(f) skulde wat deur die oorledene verskuldig is aan persone wat hul gewone verblyfplek buite die Unie het en wat gedelg is uit eiendom wat in die boedel ingesluit is, in die mate wat dit tot bevrediging van die Kommissaris bewys word dat die bedrag van sodanige skulde die waarde van enige bates van die oorledene buite die Unie en nie aldus ingesluit nie, te bowe gaan;

(g) die waarde van enige reg wat kragtens paragraaf (a) van sub-artikel (2) van artikel *drie* as eiendom van die oorledene ingesluit is, waar bedoelde reg deur die oorledene gehou was ingevolge 'n geskenk aan

to whom the right of enjoyment of the property in which the deceased held the interest, accrues or, where the interest consists of a right to an annuity charged upon property, by the person who is the owner of that property;

- (h) any amount which, in terms of the will of the deceased, or the value of any property included in the estate which, or the value of any fiduciary, usufructuary or other like interest where the benefit arising by reason of the cessation of such interest upon the death of the deceased, accrues or accrued to—
 - (i) any person under conditions requiring such amount or value to be devoted wholly to charitable, educational or ecclesiastical purposes of a public nature within the Union; or
 - (ii) any public institution within the Union for the advancement of science or art, or of a charitable, educational or ecclesiastical nature; or
 - (iii) the State or any local authority:

Provided that where the property which accrues or accrued to the State or to any one person or institution referred to in sub-paragraph (i), (ii) or (iii) consists of a fixed sum of money and exceeds an amount of five hundred pounds, the deduction to be allowed in respect of the amount so accruing or having accrued, shall be an amount which bears the same ratio to the amount so accruing or having accrued as the value of the property included in the estate bears to the aggregate value of the said value and the value of the property of the deceased falling under paragraphs (c), (d), (e), (f), (g) and (h) of sub-section (2) of section *three*, if any;

- (i) the amount by which the value of any property included in the estate has been enhanced by any improvements made to the property concerned—
 - (i) at the expense of the person to whom such property accrues on the death of the deceased; and
 - (ii) during the lifetime of the deceased and with his consent;
- (j) the amount by which the value of any fiduciary, usufructuary or other like interest which ceased upon the death of the deceased has been enhanced by any improvements made to the property concerned—
 - (i) at the expense of the person to whom the benefit arising by reason of the cessation of such interest upon the death of the deceased, accrues; and
 - (ii) during the lifetime of the deceased and with his consent;
- (k) so much of the aggregate amount which is deemed to be property of the deceased under paragraph (a) of sub-section (3) of section *three* as does not exceed the sum of five thousand pounds.

Value of
property in
estate.

5. (1) The value of any property included in the estate of any person shall be—

- (a) in the case of property, other than such property as is referred to in the proviso to paragraph (g), disposed of by a purchase and sale which in the opinion of the Commissioner is a *bona fide* purchase and sale in the course of the liquidation of the estate of the deceased, the price realized by such sale;
- (b) in the case of any such fiduciary, usufructuary or other like interest in property as is referred to in paragraph (a) of sub-section (2) of section *three*, an amount determined by capitalizing at six per cent. the annual value of the right of enjoyment of the property in which such interest was held, to the extent to which the person who upon the cessation of the said interest of the deceased becomes entitled to such right of enjoyment, over the expectation of life of such person, or if such right of enjoyment is to be held for a lesser period than the life of such person, over such lesser

hom deur die persoon aan wie die reg op die genot van die goed waarop die oorledene die reg gehou het, toeval of, waar die reg bestaan uit 'n reg op 'n jaargeld waarmee goed beswaar is, deur die persoon wat die eienaar van daardie goed is;

- (h) enige bedrag wat, volgens die testament van die oorledene, of die waarde van enige eiendom in die boedel ingesluit wat, of die waarde van enige fidusiêre reg, vruggebruik of ander dergelike reg waar die voordeel wat ontstaan ten gevolge van die verstryking van sodanige reg by die dood van die oorledene, toeval of toegeval het aan—

(i) enige persoon op voorwaardes wat vereis dat sodanige bedrag of waarde geheel en al aan liefdadigheids-, onderwys- of godsdienstdoeleindes van 'n openbare aard in die Unie gewy moet word; of

(ii) enige openbare inrigting binne die Unie ter bevordering van wetenskap of kuns, of in die aard van 'n liefdadigheids-, onderwys- of godsdienstige inrigting; of

(iii) die Staat of 'n plaaslike bestuur:

Met dien verstande dat waar die eiendom wat aan die Staat of aan 'n enkele persoon of inrigting bedoel in sub-paragraaf (i), (ii) of (iii) toeval of toegeval het, uit 'n vasgestelde som geld bestaan en 'n bedrag van vyfhonderd pond te bowe gaan, die korting wat toegestaan word ten opsigte van die bedrag wat aldus toeval of toegeval het, 'n bedrag is wat in dieselfde verhouding staan tot die bedrag wat aldus toeval of toegeval het as waarin die waarde van die eiendom wat in die boedel ingesluit is, staan tot die totale waarde van bedoelde waarde en die waarde van die eiendom van die oorledene wat val onder paragrafe (c), (d), (e), (f), (g) en (h) van sub-artikel (2) van artikel *drie*, indien daar is;

- (i) die bedrag waarmee die waarde van enige eiendom wat in die boedel ingesluit is, verhoog is deur verbeterings wat aan die betrokke goed aangebring is—

(i) op koste van die persoon aan wie bedoelde eiendom by die dood van die oorledene toeval; en

(ii) gedurende die leeftyd van die oorledene en met sy toestemming;

- (j) die bedrag waarmee die waarde van enige fidusiêre reg, vruggebruik of ander dergelike reg wat by die dood van die oorledene verval het, verhoog is deur verbeterings wat aan die betrokke goed aangebring is—

(i) op koste van die persoon aan wie die voordeel wat ontstaan ten gevolge van die verstryking van so 'n reg by die dood van die oorledene, toeval; en

(ii) gedurende die leeftyd van die oorledene en met sy toestemming;

- (k) soveel van die totale bedrag wat kragtens paragraaf (a) van sub-artikel (3) van artikel *drie* eiendom van die oorledene geag word as wat vyfduisend pond nie te bowe gaan nie.

5. (1) Die waarde van enige eiendom wat in die boedel van 'n persoon ingesluit is, is—

Waarde van eiendom in boedel.

- (a) in die geval van eiendom behalwe sodanige eiendom as wat in die voorbehoudsbepaling by paragraaf (g) bedoel word, wat van die hand gesit is deur 'n koop en verkoop wat na oordeel van die Kommissaris 'n *bona fide* koop en verkoop in die loop van die likwidasië van die boedel van die oorledene is, die prys wat deur so 'n verkoop verkry is;

- (b) in die geval van so 'n fidusiêre reg, vruggebruik of ander dergelike reg op goed as wat in paragraaf (a) van sub-artikel (2) van artikel *drie* bedoel word, 'n bedrag wat bepaal word deur die kapitalisering van die jaarlikse waarde van die reg op die genot van die goed waarop so 'n reg gehou was, in die mate waarop die persoon wat by verstryking van bedoelde reg van die oorledene op bedoelde reg van genot geregtig word, teen ses persent oor die vermoedelijke lewensduur van bedoelde persoon, of indien bedoelde reg van genot vir 'n korter tydperk as die lewensduur van bedoelde persoon gehou moet word, oor sodanige

period: Provided that in any case in which it is proved to the satisfaction of the Commissioner that such person paid any consideration for the right of ownership in the property whereby he became entitled to the right of enjoyment of the property upon the death of the deceased, the value shall be so much of the value so arrived at as exceeds the amount of such consideration together with interest thereon calculated at six per cent. per annum from the date of payment of such consideration to the date of death of the deceased;

(c) in the case of any right to any annuity referred to in paragraph (a) of sub-section (2) of section *three*, an amount equal to the value of the annuity capitalized at six per cent.—

(i) in the case where the said right accrues to some other person on the death of the deceased, over the expectation of life of the person to whom the said right accrues on the death of the deceased, or if it is to be held for a lesser period than the life of such person, over such lesser period;

(ii) in the case where the said right does not so accrue to some other person, over the expectation of life of the person who on the death of the deceased is the owner of the property upon which such annuity was charged;

(d) in the case of any right to any annuity referred to in paragraph (b) of sub-section (2) of section *three*, an amount equal to the value of the annuity capitalized at six per cent. over the expectation of life of the person to whom the right to such annuity accrues on the death of the deceased, or if it is to be held for a lesser period than the life of such person, over such lesser period;

(e) in the case of any property referred to in paragraph (b) or (c) of sub-section (3) of section *three*, an amount determined in the manner prescribed in section *fifty-four dec.* of the Income Tax Act, 1941 (Act No. 31 of 1941);

(f) in the case of a right of ownership in any movable or immovable property which is subject to a usufructuary or other like interest in favour of any person, the amount by which the fair market value of the full ownership of such property determined, subject to the provisions of section *eight*, by some impartial person appointed by the Commissioner, exceeds the value of such interest, determined—

(i) in the case of a usufructuary interest, by capitalizing at six per cent. the annual value of the right of enjoyment of the property subject to such usufructuary interest over the expectation of life of the person entitled to such interest, or if such right of enjoyment is to be held for a lesser period than the life of such person, over such lesser period;

(ii) in the case of an annuity charged upon the property, by capitalizing at six per cent. the amount of the annuity over the expectation of life of the person entitled to such annuity, or if it is to be held for a lesser period than the life of such person, over such lesser period; or

(iii) in the case of any other interest, by capitalizing at six per cent. such amount as the Commissioner may consider reasonable as representing the annual yield of such interest, over the expectation of life of the person entitled to such interest, or if such interest is to be held for a lesser period than the life of such person, over such lesser period;

(g) in the case of any other property, the fair market value of such property as at the date of death of the deceased person as determined, subject to the pro-

korter tydperk: Met dien verstande dat in 'n geval waarin dit na oortuiging van die Kommissaris bewys word dat bedoelde persoon enige vergoeding betaal het vir die eiendomsreg op die goed ten gevolge waarvan hy by die dood van die oorledene geregtig geword het op die reg van genot op die goed, die waarde soveel is van die waarde aldus bepaal as wat dit die bedrag van bedoelde vergoeding saam met rente daarop bereken teen ses persent per jaar vanaf die datum van betaling van bedoelde vergoeding tot die datum van die dood van die oorledene, te bowe gaan;

- (c) in die geval van 'n reg op 'n jaargeld bedoel in paragraaf (a) van sub-artikel (2) van artikel drie, 'n bedrag gelyk aan die waarde van die jaargeld gekapitaliseer teen ses persent—
 - (i) in die geval waar bedoelde reg by die dood van die oorledene aan iemand anders toeval, oor die vermoedelike lewensduur van die persoon aan wie die reg op bedoelde jaargeld by die dood van die oorledene toeval, of indien dit vir 'n korter tydperk as die lewensduur van bedoelde persoon gehou moet word, oor sodanige korter tydperk;
 - (ii) in die geval waar bedoelde reg nie aldus aan iemand anders toeval nie, oor die vermoedelike lewensduur van die persoon wat by die dood van die oorledene die eienaar is van die goed wat met die jaargeld beswaar was;
- (d) in die geval van 'n reg op 'n jaargeld bedoel in paragraaf (b) van sub-artikel (2) van artikel drie, 'n bedrag gelyk aan die waarde van die jaargeld gekapitaliseer teen ses persent oor die vermoedelike lewensduur van die persoon aan wie die reg op bedoelde jaargeld by die dood van die oorledene toeval, of indien dit vir 'n korter tydperk as die lewensduur van bedoelde persoon gehou moet word, oor sodanige korter tydperk.
- (e) in die geval van eiendom bedoel in paragraaf (b) of (c) van sub-artikel (3) van artikel drie, 'n bedrag wat op die in artikel vier-en-veertig dec. van die Inkomste-belastingwet, 1941 (Wet No. 31 van 1941), voorgeskrewe wyse bepaal word;
- (f) in die geval van 'n eiendomsreg op enige roerende of onroerende goed wat onderworpe is aan 'n vruggebruik of ander dergelike reg ten gunste van 'n persoon, die bedrag waarmee die billike markwaarde van die volle eiendomsreg van bedoelde goed, bepaal, behoudens die bepalinge van artikel agt, deur een of ander deur die Kommissaris aangestelde onpartydige persoon, die waarde van bedoelde reg te bowe gaan watter waarde bepaal word—
 - (i) in die geval van 'n vruggebruik, deur die kapitalisering van die jaarlikse waarde van die reg op die genot van die goed onderworpe aan bedoelde vruggebruik teen ses persent oor die vermoedelike lewensduur van die persoon wat op bedoelde reg geregtig is, of indien bedoelde reg van genot vir 'n korter tydperk as die lewensduur van bedoelde persoon gehou moet word, oor sodanige korter tydperk;
 - (ii) in die geval van 'n jaargeld waarmee die goed beswaar is, deur die kapitalisering van die bedrag van die jaargeld teen ses persent oor die vermoedelike lewensduur van die persoon wat op die jaargeld geregtig is, of indien dit vir 'n korter tydperk as die lewensduur van bedoelde persoon gehou moet word, oor sodanige korter tydperk; of
 - (iii) in die geval van enige ander reg, deur die kapitalisering van die bedrag wat na die oordeel van die Kommissaris billikerwys die jaarlikse opbrengs voorstel van bedoelde reg teen ses persent oor die vermoedelike lewensduur van die persoon wat op bedoelde reg geregtig is, of indien bedoelde reg vir 'n korter tydperk as die lewensduur van bedoelde persoon gehou moet word, oor sodanige korter tydperk;
- (g) in die geval van enige ander eiendom, die billike markwaarde van bedoelde eiendom op die datum van die dood van die oorledene soos bepaal, behoudens

visions of section *eight*, by sworn appraisalment by some impartial person appointed by the Commissioner: Provided that in any case in which, as a result of conditions which in the opinion of the Commissioner were imposed by or at the instance of the deceased, the value of any property is reduced upon the death of the deceased, the value of such property shall be determined as though the conditions in terms of which the value of the said property is so reduced upon the death of the deceased, had not been imposed.

(2) For the purposes of paragraphs (b) and (f) of sub-section (1) the annual value of the right of enjoyment of a property means an amount equal to six per cent. upon the fair market value, determined, subject to the provisions of section *eight*, by sworn appraisalment by some impartial person appointed by the Commissioner, of the full ownership of the property which is subject to any fiduciary, usufructuary or other like interest: Provided that where it is established to the satisfaction of the Commissioner that the property which is subject to any such interest could not reasonably be expected to produce an annual yield equal to six per cent. on such value of the property, the Commissioner may fix such sum as representing the annual yield as may seem to him to be reasonable, and the sum so fixed shall for the purposes of paragraph (b) of sub-section (1) be deemed to be the annual value of the right of enjoyment of such property: Provided further that where the property which is subject to any such interest consists of books, pictures, statuary or other objects of art, the annual value of the right of enjoyment thereof shall for the purposes of paragraph (b) of sub-section (1) be deemed to be the average net receipts (if any) derived by the person entitled to such right of enjoyment of such property during the three years immediately preceding the date of death of the deceased.

(3) Where for the purposes of sub-section (1) any calculation is required to be made over the expectation of life of any person, such calculation shall, in the case of a person who is not a natural person, be made over a period of fifty years.

Administration
of Act.

6. (1) The Commissioner shall be responsible for the administration of this Act.

(2) The powers conferred and the duties imposed upon the Commissioner by this Act may be exercised or performed by the Commissioner personally or by any officer acting under a delegation from or under the control or direction of the Commissioner.

(3) Any decision made and any notice or communication issued or signed by any such officer may be withdrawn or amended by the Commissioner, or by the officer concerned, and shall, until it has been so withdrawn, be deemed to have been made, issued or signed by the Commissioner.

Rendering
of returns.

7. (1) Every executor or, if he is called upon by the Commissioner to do so, any person having the control of or any interest in any property included in the estate, shall submit to the Commissioner a return in a form, prescribed by him, disclosing the amount claimed by the person submitting the return to represent the dutiable amount of the estate together with full particulars regarding—

- (a) the property of the deceased as at the date of his death;
- (b) property which, in accordance with sub-section (3) of section *three*, is deemed to be property of the deceased as at that date;
- (c) any deduction claimed in terms of section *four*.

(2) If after having been called upon to do so by the Commissioner, any person referred to in sub-section (1) fails to submit to the Commissioner the return referred to in that sub-section within the period prescribed by the Commissioner, the Commissioner may estimate the dutiable amount of the estate of the deceased in such sum as he may consider to be fair and reasonable, and thereupon duty shall be assessed upon the dutiable amount of the estate as so estimated.

Determination
of dutiable
amount.

8. (1) If the Commissioner on receipt of any return referred to in section *seven*—

die bepalinge van artikel *agt*, deur beëdigde waarde-ring deur 'n deur die Kommissaris aangestelde onpartydige persoon: Met dien verstande dat in 'n geval waar, ten gevolge van voorwaardes wat na oordeel van die Kommissaris deur of in opdrag van die oorledene opgelê is, die waarde van enige eiendom by die dood van die oorledene verminder het, die waarde van bedoelde eiendom bepaal word asof die voorwaardes waarkragtens die waarde van bedoelde eiendom by die dood van die oorledene aldus verminder het, nie opgelê was nie.

(2) By die toepassing van paragrafe (b) en (f) van sub-artikel (1), beteken die jaarlikse waarde van die reg op die genot van goed, 'n bedrag gelyk aan ses persent van die billike markwaarde, bepaal, behoudens die bepalinge van artikel *agt*, deur beëdigde waardering deur 'n deur die Kommissaris aangestelde onpartydige persoon, van die volle eiendomsreg op die goed wat aan 'n fidusiêre reg, vruggebruik of ander dergelyke reg onderworpe is: Met dien verstande dat waar dit tot bevrediging van die Kommissaris bewys word dat die goed wat aan so 'n reg onderworpe is, nie redelikerwys verwag kan word om 'n jaarlikse opbrengs gelyk aan ses persent van bedoelde waarde van die goed op te lewer nie, die Kommissaris so 'n som kan vasstel as wat na sy oordeel billikerwys die jaarlikse opbrengs voorstel, en die aldus vasgestelde som by die toepassing van paragraaf (b) van sub-artikel (1) geag word die jaarlikse waarde van die reg op die genot van bedoelde goed te wees: Met dien verstande voorts dat waar die goed wat aan so 'n reg onderworpe is, uit boeke, skilderye, standbeelde of ander kunsvoorwerpe bestaan, die jaarlikse waarde van die reg van genot daarop by die toepassing van paragraaf (b) van sub-artikel (1) geag word die gemiddelde netto ontvangste (indien daar is) te wees wat deur die persoon wat op bedoelde reg van genot op bedoelde goed geregtig was, gedurende die drie jaar onmiddellik voor die datum van die dood van die oorledene, verkry is.

(3) Wanneer 'n berekening by die toepassing van sub-artikel (1) oor die vermoedelike lewensduur van 'n persoon gemaak moet word, word bedoelde berekening in die geval van 'n persoon wat nie 'n natuurlike persoon is nie, oor 'n tydperk van vyftig jaar gemaak.

6. (1) Die Kommissaris is verantwoordelik vir die uitvoering van hierdie Wet. Uitvoering van Wet.

(2) Die bevoegdheid aan die Kommissaris verleen en die pligte aan hom opgelê deur hierdie Wet, kan deur die Kommissaris persoonlik of deur 'n amptenaar wat uit hoofde van 'n delegering of onder die beheer of voorskrifte van die Kommissaris optree, uitgeoefen of nagekom word.

(3) 'n Beslissing deur so 'n amptenaar gegee en 'n kennisgewing of mededeling deur hom uitgereik of onderteken, kan deur die Kommissaris of deur die betrokke amptenaar ingetrek of gewysig word, en word, totdat dit aldus ingetrek is, geag deur die Kommissaris gegee, uitgereik of onderteken te gewees het.

7. (1) Iedere eksekuteur of, indien hy deur die Kommissaris daartoe aangesê word, enige persoon wat die beheer het oor, of 'n belang het in enige eiendom in die boedel ingesluit, moet aan die Kommissaris op 'n deur hom voorgeskrewe vorm 'n opgawe voorlê, waarin die bedrag aangegee word wat na bewering van die persoon wat die opgawe voorlê, die belasbare bedrag van die boedel weergee, saam met volle besonderhede betreffende— Instuur van opgawes.

(a) die eiendom van die oorledene op die datum van sy dood;

(b) eiendom wat, ooreenkomstig sub-artikel (3) van artikel *drie*, geag word eiendom van die oorledene op daardie datum te wees;

(c) enige korting waarop ingevolge artikel *vier* aanspraak gemaak word.

(2) Indien 'n in sub-artikel (1) bedoelde persoon, nadat hy deur die Kommissaris aangesê is om dit te doen, in gebreke bly om die in daardie sub-artikel bedoelde opgawe aan die Kommissaris binne die deur die Kommissaris voorgeskrewe tydperk voor te lê, kan die Kommissaris die belasbare bedrag van die boedel van die oorledene op so 'n bedrag raam as wat hy billik en redelik ag, en daarop word belasting aangeslaan op die aldus geraamde belasbare bedrag van die boedel.

8. (1) Indien die Kommissaris op ontvangs van 'n in artikel *sewe* bedoelde opgawe— Bepaling van belasbare bedrag.

- (a) is dissatisfied with any value at which any property is shown in any such return; or
 - (b) is of the opinion that the amount claimed to represent the dutiable amount as disclosed in the return does not represent the correct dutiable amount,
- he shall adjust such value or amount and determine the dutiable amount accordingly.

(2) For the purposes of sub-section (1) the Commissioner may call upon any person to furnish such information as he may require.

(3) Any dutiable amount determined by the Commissioner under sub-section (1) shall, subject to the provisions of section *twenty-four*, be the amount upon which duty shall be assessed.

Assessment
of duty by
Commissioner.

9. (1) The Commissioner shall assess the duty payable under this Act and shall in respect of every estate liable for the duty issue a notice of assessment to the executor or, if there is no executor, to any person liable for the duty.

(2) The duty assessed shall be paid on such date and at such place as may be prescribed in the notice of assessment, and may be paid in one sum or in such instalments as may be determined by the Commissioner having regard to the circumstances of the case.

(3) A notice of assessment shall be issued in respect of each return submitted in respect of any estate in which liability for duty is disclosed, due regard being had in the calculation of the duty to any duty chargeable on any previous returns submitted in respect of the same estate.

Payment of
interest.

10. (1) If any duty remains unpaid at the expiration of a period of thirty days from the date of payment notified in accordance with sub-section (2) of section *nine*, there shall be payable, in addition to the unpaid duty, interest at the rate of six per cent. per annum on the amount of unpaid duty calculated from the date of the expiration of the said period to the date of payment: Provided that, where the assessment of duty is delayed beyond a period of twelve months from the date of death, interest at the rate of six per cent. per annum shall be payable as from a date twelve months after the date of death on the difference (if any) between the duty assessed and any deposit (if any) made on account of the duty payable within the said period of twelve months.

(2) Whenever the Commissioner is satisfied that the delay in the payment of duty within the period of thirty days from the date of payment notified in accordance with sub-section (2) of section *nine*, or within the period of twelve months from the date of death, as the case may be, has not been occasioned either by the executor or by any person liable for the duty, he may allow an extension of time within which the duty may be paid without interest if, before the expiration of the said period of thirty days or the said period of twelve months, as the case may be or such further period as the Commissioner may allow—

- (a) a deposit on account of the duty payable is made of an amount which, in the opinion of the Commissioner, is reasonable regard being had to the amount of the duty payable; and
- (b) application is made in writing to the Commissioner for such extension of time.

Person liable
for duty.

11. The person liable for the duty shall be—

- (a) where duty is levied on property of the deceased which falls under sub-section (2) of section *three*—
 - (i) as to any property referred to in paragraph (a) or (b) of that sub-section, the person to whom any advantage accrues by the death of the deceased;
 - (ii) as to any other property, the executor;
- (b) where duty is levied on property which, in accordance with sub-section (3) of section *three*, is deemed to be property of the deceased—
 - (i) as to property referred to in paragraph (a) of that sub-section, the executor: Provided that

- (a) nie genoeg neem nie met enige waarde waarteen enige eiendom in so 'n opgawe aangetoon word; of
 - (b) van oordeel is dat die bedrag wat na bewering die belasbare bedrag van die boedel soos in die opgawe aangegee word, weergee, nie die juiste belasbare bedrag weergee nie,
- moet hy bedoelde waarde of bedrag verbeter en die belasbare bedrag dienoreenkomstig bepaal.

(2) Die Kommissaris kan by die toepassing van sub-artikel (1), enigiemand aansê om aan hom die inligting te verstrek wat hy vereis.

(3) 'n Belasbare bedrag wat deur die Kommissaris kragtens sub-artikel (1) bepaal word, is, behoudens die bepalinge van artikel vier-en-twintig, die bedrag waarop belasting aangeslaan word.

9. (1) Die Kommissaris slaan die belasting aan wat ingevolge hierdie Wet betaalbaar is, en reik ten opsigte van elke boedel wat aan die belasting onderhewig is, 'n kennisgewing van aanslag uit aan die eksekuteur of, indien daar geen eksekuteur is nie, aan enige persoon wat vir die belasting aanspreeklik is.

Aanslag van belasting deur Kommissaris.

(2) Die aangeslane belasting word op die datum en plek betaal wat in die kennisgewing van aanslag voorgeskryf word, en kan in een bedrag betaal word of in sulke paaiemente as wat die Kommissaris na gelang van die omstandighede van die geval, kan bepaal.

(3) 'n Kennisgewing van aanslag word uitgereik ten opsigte van iedere opgaaf wat voorgelê is ten opsigte van 'n boedel waarin daar aanspreeklikheid vir belasting openbaar word, en daar word by die berekening van die belasting rekening gehou met die belasting wat hefbaar is op vorige opgawes wat ten opsigte van dieselfde boedel voorgelê is.

10. (1) Indien enige belasting onbetaal bly na die verstryking van 'n tydperk van dertig dae vanaf die datum wat ooreenkomstig sub-artikel (2) van artikel nege vir betaling voorgeskryf is, is daar, benewens die onbetaalde belasting, rente betaalbaar teen die koers van ses persent per jaar op die bedrag van die onbetaalde belasting, bereken vanaf die datum van verstryking van bedoelde tydperk tot die datum van betaling: Met dien verstande dat waar die belastingaanslag vir 'n langer tydperk as twaalf maande vanaf die datum van oorlye vertraag word, rente teen die koers van ses persent per jaar betaalbaar is vanaf 'n datum twaalf maande na die datum van oorlye op die verskil (indien daar is) tussen die belasting wat aangeslaan is en enige deposito's (indien daar is) wat binne bedoelde tydperk van twaalf maande teen die betaalbare belasting gestort is.

Betaling van rente.

(2) Wanneer die Kommissaris oortuig is dat die vertraging in verband met die betaling van die belasting binne die tydperk van dertig dae vanaf die datum wat ooreenkomstig sub-artikel (2) van artikel nege vir betaling voorgeskryf is, of binne die tydperk van twaalf maande vanaf die datum van oorlye, na gelang van die geval, nie deur die eksekuteur of deur iemand wat vir die belasting aanspreeklik is, veroorsaak is nie, staan hy 'n verlenging van tyd vir die betaling van die belasting sonder rente toe mits daar voor die verstryking van bedoelde tydperk van dertig dae of bedoelde tydperk van twaalf maande, na gelang van die geval of so 'n verdere tydperk as wat die Kommissaris mag toelaat,—

- (a) 'n deposito teen die betaalbare belasting, van 'n bedrag wat, na oordeel van die Kommissaris, redelik is met die oog op die bedrag van die betaalbare belasting, gestort is; en
- (b) skriftelik aansoek vir so 'n verlenging van tyd by die Kommissaris gedoen word.

11. Die persoon wat aanspreeklik is vir die belasting is—

Persoon aanspreeklik vir belasting.

- (a) waar belasting gehef word op eiendom van die oorledene wat onder sub-artikel (2) van artikel drie val—
 - (i) betreffende eiendom bedoel in paragraaf (a) of
 - (b) van daardie sub-artikel, die persoon aan wie enige voordeel by die dood van die oorledene toeval;
 - (ii) betreffende enige ander eiendom, die eksekuteur;
- (b) waar belasting gehef word op eiendom wat, ooreenkomstig sub-artikel (3) van artikel drie, geag word eiendom van die oorledene te wees—
 - (i) betreffende eiendom bedoel in paragraaf (a) van daardie sub-artikel, die eksekuteur: Met dien verstande dat waar die bedrag wat inge-

where the amount due under the policy is recoverable by any person other than the executor, the person liable for the duty shall be the person entitled to recover the amount due under the policy;

- (ii) as to any property referred to in paragraph (b) or (c) of that sub-section, the donee;
- (iii) as to any property referred to in paragraph (d) of that sub-section, the executor.

Duty payable by executor.

12. Notwithstanding anything to the contrary contained in section *eleven*, any duty payable under this Act shall be payable by and recoverable from the executor of the estate subject to the duty: Provided that the liability under this section of any executor shall be a liability in his capacity as executor only and for an amount not exceeding the available assets in the estate.

Right of recovery by executor.

13. (1) Every executor who is required to pay duty in respect of any property referred to in sub-paragraph (i) of paragraph (a) or the proviso to sub-paragraph (i) of paragraph (b), or sub-paragraph (ii) of paragraph (b) of section *eleven*, shall be entitled to recover from the person liable therefor the duty attributable to such property.

(2) The duty attributable to any such property shall be a sum which bears to the full duty payable in respect of the estate (before the deduction in accordance with the provisions of section *sixteen* of any amount in respect of transfer duty or donations tax) the same ratio as the value of the said property, as determined for the purposes of this Act, bears to the total value of the estate as so determined, reduced, in any case in which there is, in accordance with the said section *sixteen*, deducted from the duty payable in respect of the estate, any amount of transfer duty or donations tax paid in respect of any property included in the estate which has accrued to the person liable for the duty attributable to that property, by the amount of the transfer duty or donations tax so paid.

(3) Whenever duty is in terms of sub-paragraph (i) of paragraph (b) of section *eleven* payable by more than one person on the value of any property referred to in paragraph (a) of sub-section (3) of section *three*, the amount of duty payable by each such person shall be such proportion of the total duty attributable to the total value of the said property, as bears to the said total duty the same ratio as so much of the amount which such person is entitled to recover under any policy as is included in the estate under paragraph (a) of sub-section (3) of section *three*, bears to the total value of the said property plus the amount deducted in terms of paragraph (k) of section *four*.

Right to mortgage property.

14. To provide for the payment of any duty, the person liable therefor may, with the consent of the Master, borrow any moneys or mortgage any property in respect of which the liability for duty arises, notwithstanding any provision to the contrary contained in any deed or testamentary disposition or in any law.

Recovery of duty paid in certain cases.

15. Any person who has disposed of property in respect of which a liability for duty in accordance with sub-paragraph (ii) of paragraph (b) of section *eleven*, thereafter arises, without having received full consideration therefor, may recover from the person to whom he has disposed of such property the amount of duty payable by him in respect thereof.

16. There shall be deducted from any duty payable under this Act—

- (a) any transfer duty which is proved to the satisfaction of the Commissioner to have been paid in respect of the acquisition from the deceased or his estate of any property included in the estate for the purposes of the assessment of duty, by any person liable for the duty attributable to that property; and
- (b) any donations tax which is proved to the satisfaction of the Commissioner to have been paid under the

- volge die polis verskuldig is, verhaalbaar is deur 'n ander persoon as die eksekuteur, die persoon wat vir die belasting aanspreeklik is, die persoon is wat geregtig is om die bedrag wat ingevolge die polis verskuldig is, te verhaal;
- (ii) betreffende eiendom bedoel in paragraaf (b) of (c) van daardie sub-artikel, die begiftigde;
- (iii) betreffende eiendom bedoel in paragraaf (d) van daardie sub-artikel, die eksekuteur.

12. Ondanks andersluidende bepalings van artikel *elf*, is ingevolge hierdie Wet betaalbare belasting, betaalbaar deur en verhaalbaar op die eksekuteur van die boedel wat aan die belasting onderhewig is: Met dien verstande dat die aanspreeklikheid ingevolge hierdie artikel van 'n eksekuteur 'n aanspreeklikheid slegs in sy hoedanigheid van eksekuteur is en vir 'n bedrag van hoogstens die beskikbare bates in die boedel.

Belasting is deur eksekuteur betaalbaar.

13. (1) Iedere eksekuteur wat belasting ten opsigte van eiendom bedoel in sub-paragraaf (i) van paragraaf (a) of die voorbehoudsbepaling by sub-paragraaf (i) van paragraaf (b) of sub-paragraaf (ii) van paragraaf (b) van artikel *elf* moet betaal, is geregtig om die belasting wat aan daardie eiendom toe te skrywe is, op die persoon wat daarvoor aanspreeklik is, te verhaal.

Reg van verhaal deur eksekuteur.

(2) Die belasting wat aan so 'n eiendom toe te skrywe is, word geag 'n bedrag te wees wat tot die volle belasting wat ten opsigte van die boedel betaalbaar is (voor die aftrekking ooreenkomstig die bepalings van artikel *sestien* van enige bedrag ten opsigte van hereregte of belasting op geskenke) in dieselfde verhouding staan as dié waarin die waarde van bedoelde eiendom, soos vir die doeleindes van hierdie Wet bepaal, staan tot die totale waarde van die boedel aldus bepaal, verminder, in iedere geval waar daar, ooreenkomstig bedoelde artikel *sestien*, van die belasting ten opsigte van die boedel betaalbaar, 'n bedrag afgetrek word ten opsigte van hereregte of belasting op geskenke wat betaal is ten opsigte van enige eiendom in die boedel ingesluit wat toegeval het aan die persoon wat aanspreeklik is vir die belasting wat aan bedoelde eiendom toeskryfbaar is, met die bedrag van die hereregte of belasting op geskenke aldus betaal.

(3) Wanneer belasting ingevolge sub-paragraaf (i) van paragraaf (b) van artikel *elf* deur meer as een persoon op die waarde van eiendom bedoel in paragraaf (a) van sub-artikel (3) van artikel *drie* betaalbaar is, is die bedrag van die belasting betaalbaar deur iedere sodanige persoon, so 'n gedeelte van die totale belasting wat aan die totale waarde van bedoelde eiendom toeskryfbaar is, as wat in dieselfde verhouding tot bedoelde totale belasting staan as dié waarin soveel van die bedrag wat bedoelde persoon geregtig is om ingevolge die polis te verhaal as wat ingevolge paragraaf (a) van sub-artikel (3) van artikel *drie* by die boedel ingesluit is, staan tot die totale waarde van bedoelde eiendom plus die bedrag wat kragtens paragraaf (k) van artikel *vier* afgetrek is.

14. Om voorsiening te maak vir die betaling van enige belasting, kan die persoon wat daarvoor aanspreeklik is, met die toestemming van die Meester, geld leen of eiendom ten opsigte waarvan die aanspreeklikheid vir belasting ontstaan, ondanks enige andersluidende bepaling in enige akte of testamentêre beskikking of 'n wetsbepaling, met verband beswaar.

Reg om eiendom met verband te beswaar.

15. 'n Persoon wat eiendom van die hand gesit het ten opsigte waarvan 'n aanspreeklikheid vir belasting ooreenkomstig sub-paragraaf (ii) van paragraaf (b) van artikel *elf* daarna ontstaan, sonder dat hy volle vergoeding daarvoor ontvang het, kan op die persoon aan wie hy sodanige eiendom van die hand gesit het, die bedrag van die belasting deur hom ten opsigte daarvan betaalbaar, verhaal.

Verhaal van betaalde belasting in sekere gevalle.

16. Daar word van enige ingevolge hierdie Wet betaalbare belasting afgetrek—

Aftrekking van hereregte en belasting op geskenke.

- (a) enige hereregte wat tot bevrediging van die Kommissaris bewys word ten opsigte van die verkryging van die oorledene of sy boedel van enige eiendom wat by die aanslag van belasting in die boedel ingesluit is, betaal te gewees het deur iemand wat aanspreeklik is vir die belasting wat aan bedoelde eiendom toeskryfbaar is; en
- (b) enige belasting op geskenke wat tot bevrediging van die Kommissaris bewys word ingevolge die Inkomste-

Income Tax Act, 1941 (Act No. 31 of 1941), in respect of any property which, in accordance with paragraph (c) of sub-section (3) of section *three* of this Act is deemed to be property of the deceased.

No account to be filed by Master before duty is paid or secured.

17. The Master shall not file any administration and distribution account in his office or grant a discharge to any executor until he is satisfied that the duty payable under this Act has been paid or secured to the satisfaction of the Commissioner or that the Commissioner consents to the discharge.

No property to be delivered by executor before duty provided for.

18. Before delivering or transferring any property of the deceased to any heir or legatee the executor shall satisfy the Commissioner that due provision has been made for the payment of any duty payable under this Act.

Personal liability of executor.

19. Every executor who pays over or parts with the possession or control of any property under his administration without first paying any duties payable under this Act, shall be personally and jointly and severally liable with any other person to whom he has paid over, or to whom he has delivered, any such property, for the amount of the duty ascertained by the Commissioner to be payable in respect thereof.

Expenditure incurred by executor.

20. Every executor who is required to incur any expenditure in respect of any property which falls under paragraph (a) or (b) of sub-section (2) or under sub-section (3) of section *three*, shall be entitled to recover such expenditure from the person liable, in accordance with section *eleven*, for the duty payable in respect of such property.

No transfer of stocks or shares to be registered before duty paid.

21. (1) A company shall not permit the transfer—

(a) of any stocks or shares in such company registered in a deceased person's name; or

(b) of any stocks or shares in such company registered in the name of any person who has been notified to such company by the Commissioner as being a person in whose name stocks or shares belonging to a deceased person are held,

until satisfactory proof has been lodged that payment has been made of any duty payable under this Act in respect of such stocks or shares or that the Commissioner consents to such transfer.

(2) The person holding the position of secretary of such company shall be responsible for the carrying out of the provisions of sub-section (1).

No transfer of property to be registered in any Deeds office until duty paid.

22. (1) No grant, transfer, endorsement or other registration shall be recorded in any deeds registry in connection with any property or interest in property forming part of a deceased estate or which was held by a deceased person, unless there is produced to the registrar of deeds concerned a certificate issued by the Commissioner that all necessary provision has been made for the payment of any duties payable under this Act.

(2) No fee shall be payable in respect of the issue of any such certificate.

Returns by insurers.

23. Every person who carries on in the Union any insurance business shall whenever he, on the death of any person, makes payment of any claim under any policy of insurance which is a "Union policy" as defined in section *one* of the Insurance Act, 1943 (Act No. 27 of 1943), upon the life of that person, advise the Commissioner, in such form as the Commissioner may require, of such payment.

Appeals from decisions of Commissioner regarding matters of valuation.

24. (1) Any person aggrieved by any decision of the Commissioner under sub-section (1) of section *eight* in regard to the valuation of any property under this Act may, within thirty days after the decision became known to him or within such further period as the Commissioner may on good cause allow, appeal against that decision to the special court constituted in accordance with the provisions of section *seventy-nine* of the Income Tax Act, 1941 (Act No. 31 of 1941), for the hearing of income tax appeals in the area in which the estate concerned is being administered.

(2) Every notice of appeal under sub-section (1) shall be in writing and shall be lodged with the Commissioner.

belastingwet, 1941 (Wet No. 31 van 1941) betaal te gewees, het ten opsigte van eiendom wat volgens paragraaf (c) van sub-artikel (3) van artikel drie van hierdie Wet geag word eiendom van die oorledene te wees.

17. Die Meester berg geen administrasie- en distribusie-rekening in sy kantoor weg nie, en verleen geen ontslag aan 'n eksekuteur nie, totdat hy oortuig is dat die ingevolge hierdie Wet betaalbare belasting tot bevrediging van die Kommissaris betaal of gewaarborg is of dat die Kommissaris tot die ontslag instem.

Geen rekening word deur die Meester weggeberg voordat belasting betaal of gewaarborg is nie.

18. Voordat enige eiendom van die oorledene aan 'n erfgenaam of legataris gelewer of oorgedra word, moet die eksekuteur die Kommissaris oortuig dat behoorlike voorsiening gemaak is vir die betaling van enige belasting betaalbaar ingevolge hierdie Wet.

Geen eiendom word deur die eksekuteur oorgedra voordat vir belasting voorsiening gemaak is nie.

19. Iedere eksekuteur wat eiendom onder sy administrasie uitbetaal of van die besit of beheer daarvan afstand doen sonder om eers enige ingevolge hierdie Wet betaalbare belasting te betaal, is persoonlik en gesamentlik en afsonderlik met enige ander persoon aan wie hy sodanige eiendom uitbetaal of oorgedra het, aanspreeklik vir die bedrag van die belasting ten opsigte daarvan betaalbaar soos deur die Kommissaris bepaal.

Persoonlike aanspreeklikheid van eksekuteur.

20. Iedere eksekuteur wat enige uitgawes moet aangaan ten opsigte van eiendom wat onder paragraaf (a) of (b) van sub-artikel (2) of onder sub-artikel (3) van artikel drie val, is geregtig om daardie uitgawes te verhaal op die persoon wat ingevolge artikel elf vir die ten opsigte van daardie eiendom betaalbare belasting aanspreeklik is.

Uitgawes deur eksekuteur aangeaan.

21. (1) 'n Maatskappy laat geen oordrag toe nie—

(a) van effekte of aandele in so 'n maatskappy wat in die naam van 'n afgestorwe persoon geregistreer is; of

(b) van effekte of aandele in so 'n maatskappy wat geregistreer is in die naam van iemand omtrent wie die Kommissaris daardie maatskappy in kennis gestel het dat hy iemand is in wie se naam effekte of aandele gehou word wat aan 'n afgestorwe persoon behoort, totdat bevredigende bewys gelewer is dat enige ingevolge hierdie Wet betaalbare belasting ten opsigte van bedoelde effekte of aandele betaal is, of dat die Kommissaris tot die oordrag instem.

Geen oordrag van effekte of aandele word geregistreer voordat belasting betaal is nie.

(2) Die persoon wat die betrekking van sekretaris van so 'n maatskappy beklee, is belas met die verantwoordelikheid om aan die bepalinge van sub-artikel (1) uitvoering te gee.

22. (1) Geen toekenning, oordrag, endossement of ander registrasie met betrekking tot eiendom of 'n belang in eiendom wat deel uitmaak van 'n bestorwe boedel of wat deur 'n oorlede persoon gehou was, word in 'n registrasiekantoor van aktes aangeteken nie, tensy aan die betrokke registrateur van aktes 'n sertifikaat voorgelê word wat deur die Kommissaris uitgereik is ten effekte dat alle nodige voorsiening gemaak is vir die betaling van belastinge wat ingevolge hierdie Wet betaal moet word.

Geen oordrag van eiendom word in 'n akteskantoor geregistreer nie totdat belasting betaal is.

(2) Geen gelde is ten opsigte van die uitreiking van so 'n sertifikaat betaalbaar nie.

23. Iedere persoon wat versekeringsbesigheid in die Unie dryf, moet, wanneer hy by die dood van enige persoon 'n eis uitbetaal ingevolge 'n assuransiepolis wat 'n „binnelandse polis”, soos in artikel een van die Versekeringswet, 1943 (Wet No. 27 van 1943), omskryf, op die lewe van bedoelde persoon is, die Kommissaris van daardie uitbetaling in kennis stel in die vorm wat deur die Kommissaris verlang word.

Opgawes deur versekeraars.

24. (1) Iemand wat ontevrede is met 'n beslissing van die Kommissaris ingevolge sub-artikel (1) van artikel agt, aangaande die waardering van enige eiendom kragtens hierdie Wet, kan binne dertig dae nadat die beslissing aan hom bekend geword het of binne so 'n verdere tydperk as wat die Kommissaris om gegronde redes mag toelaat, teen daardie beslissing appelleer na die spesiale hof ooreenkomstig die bepalinge van artikel nege-en-sewentig van die Inkomstebelastingwet, 1941 (Wet No. 31 van 1941), ingestel vir die verhoor van appêle in verband met inkomstebelasting in die gebied waarin die betrokke boedel geadministreer word.

Appêle teen beslissings van Kommissaris aangaande waarderinge.

(2) Iedere kennisgewing van appêl ingevolge sub-artikel (1) moet op skrif wees en by die Kommissaris ingedien word.

(3) The special court to which appeal is made shall inquire into and consider the matter and shall confirm, vary or set aside the decision of the Commissioner or give such other decision as, in its opinion, the Commissioner ought to have given.

(4) The provisions of sub-sections (9), (10), (11) (12), (14)*bis*, (15) and (16) of section *seventy-nine* and of sections *seventy-nine bis*, *seventy-nine ter* and *eighty-one* of the Income Tax Act, 1941, shall apply *mutatis mutandis* with reference to any appeal under this section.

Recovery of
duty.

25. (1) Any duty or interest, or any other sum whatever due under this Act shall be a debt due to the Government and shall be recoverable by action instituted in the name of the Commissioner in any competent court.

(2) Any such action may be instituted against any person liable under any provision of this Act, notwithstanding that the obligation to pay the amount of duty is also imposed by this Act on any other person.

Prevention of,
or relief from
double taxation.

26. (1) The Governor-General may enter into an agreement with the Government of any other country or territory, whereby arrangements are made with such Government with a view to the prevention, mitigation or discontinuance of the levying, under the laws of the Union and of such other country or territory, of estate duty in respect of the same property or to the rendering of reciprocal assistance in the administration of, and in the collection of estate duty under the laws relating to estate duty in force in the Union and in such other country or territory.

(2) As soon as may be after the conclusion of any such agreement, the arrangements thereby made shall be notified by proclamation by the Governor-General in the *Gazette*, whereupon until such proclamation is revoked by the Governor-General, the arrangements notified therein shall, so far as they relate to immunity, exemption or relief in respect of Union estate duties, have effect as if enacted in this Act, but only if and for so long as such arrangements, so far as they relate to immunity, exemption or relief in respect of estate duties levied or leviable in such other country or territory have the effect of law in such country or territory.

(3) As soon as may be after the publication in the *Gazette* of any such proclamation copies thereof shall be laid upon the Tables of both Houses of Parliament.

(4) The Governor-General may at any time revoke any such proclamation by proclamation in the *Gazette*, and the arrangements notified in such earlier proclamation shall cease to have effect upon a date fixed in such latter proclamation, but the revocation of any proclamation shall not affect the validity of anything previously done thereunder.

(5) As soon as may be after the publication in the *Gazette* of any proclamation revoking any such proclamation copies thereof shall be laid upon the Tables of both Houses of Parliament.

Collection of
duties under
arrangements
made under
section 26.

27. (1) If the Commissioner has, in accordance with any arrangements made with the Government of any other country or territory by an agreement entered into under section *twenty-six* with a view to rendering reciprocal assistance in the collection of estate duties, received a request for the collection from any person in the Union of an amount alleged to be due by him under the laws relating to estate duties in force in such other country or territory, the Commissioner may, by notice in writing, call upon such person to state, within a period specified in the notice, whether or not he admits liability for the said amount or for any lesser amount.

(2) The Commissioner may—

(a) if such person so admits liability; or

(b) (i) if such person fails to comply with the notice or in answer to the notice denies his liability for the said amount or for any part thereof; and

(ii) if a judge of the Supreme Court sitting in Chambers has certified that he has afforded the person concerned an opportunity of presenting his case, and that on the information submitted to him by the Commissioner and by such person (if any), the amount specified in the certificate appears to be payable by such person in terms of a final determination under the laws relating to estate duties in force in such other country or territory,

(3) Die spesiale hof waarna geappelleer word, moet die saak ondersoek en oorweeg en die beslissing van die Kommissaris bekragtig, wysig of ter syde stel, of so 'n ander beslissing gee as wat die Kommissaris volgens die hof se oordeel moes gegee het.

(4) Die bepalinge van sub-artikels (9), (10), (11), (12), (14)bis, (15) en (16) van artikel *nege-en-sewentig* en van artikels *nege-en-sewentig bis*, *nege-en-sewentig ter en een-en-tagtig* van die Inkomstebelastingwet, 1941, is *mutatis mutandis* met betrekking tot 'n appèl ingevolge hierdie artikel van toepassing.

25. (1) Enige ingevolge hierdie Wet verskuldigde belasting of rente, of watter ander bedrag ook al, is 'n skuld aan die Regering verskuldig en kan by wyse van aksie ingestel in die naam van die Kommissaris in enige bevoegde hof verhaal word.

Verhaling van belasting.

(2) So 'n aksie kan ingestel word teen enigiemand wat ingevolge 'n bepaling van hierdie Wet aanspreeklik is, al word die verpligting om die bedrag van die belasting te betaal, deur hierdie Wet ook aan iemand anders opgelê.

26. (1) Die Goewerneur-generaal kan met die regering van enige ander land of gebied 'n ooreenkoms aangaan, waarvolgens met daardie regering reëlins getref word ten einde die heffing, ingevolge die wette van die Unie en van daardie ander land of gebied, van boedelbelasting ten opsigte van dieselfde eiendom te voorkom, in te kort of op te hef, of ten einde wederkerige hulp te verleen in verband met die uitvoering van en insameling van boedelbelasting kragtens die wette met betrekking tot boedelbelasting van krag in die Unie en in daardie ander land of gebied.

Voorkoming of ontheffing van dubbele belasting.

(2) Die reëlins ingevolge so 'n ooreenkoms getref, word so spoedig doenlik na die sluiting van die ooreenkoms deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* afgekondig, en die aldus afgekondigde reëlins is daarna, tot dat die proklamasie deur die Goewerneur-generaal herroep word, vir sover daardie reëlins op ontheffing, vrystelling of verligting ten opsigte van boedelbelasting in die Unie betrekking het, van krag asof dit by hierdie Wet verorden was, maar slegs indien en solank as wat bedoelde reëlins, vir sover dit betrekking het op ontheffing, vrystelling of verligting ten opsigte van boedelbelasting in daardie ander land of gebied gehef of hefbaar in daardie land of gebied regs krag het.

(3) So spoedig doenlik na die afkondiging van so 'n proklamasie in die *Staatskoerant*, moet afskrifte daarvan in albei Huise van die Parlement ter Tafel gelê word.

(4) Die Goewerneur-generaal kan te eniger tyd so 'n proklamasie by proklamasie in die *Staatskoerant* herroep, en die reëlins in die vorige proklamasie afgekondig, verval op 'n datum in die latere proklamasie bepaal, maar die herroeping van 'n proklamasie doen geen afbreuk aan die geldigheid van iets wat tevore uit kragte daarvan gedoen is nie.

(5) So spoedig doenlik na die afkondiging in die *Staatskoerant* van 'n proklamasie waarby so 'n proklamasie herroep word, moet afskrifte daarvan in albei Huise van die Parlement ter Tafel gelê word.

27. (1) Indien die Kommissaris volgens reëlins by ooreenkoms kragtens artikel *ses-en-twintig* met die Regering van 'n ander land of gebied getref, met die doel om by die invordering van boedelbelastinge wederkerige hulp te verleen, 'n versoek ontvang het vir die invordering van iemand in die Unie van 'n bedrag wat na bewering deur hom verskuldig is ingevolge die wette wat met betrekking tot boedelbelasting in daardie ander land of gebied van krag is, kan die Kommissaris so iemand by skriftlike kennisgewing aansê om binne 'n tydperk in die kennisgewing vermeld te verklaar of hy vir bedoelde bedrag of 'n mindere bedrag aanspreeklikheid erken al dan nie.

Invordering van belastinge ingevolge reëlins kragtens artikel 26 getref.

(2) Die Kommissaris kan—

(a) indien so iemand aldus aanspreeklikheid erken; of

(b) (i) indien so iemand in gebreke bly om aan die kennisgewing te voldoen, of in antwoord op die kennisgewing sy aanspreeklikheid vir bedoelde bedrag of vir 'n gedeelte daarvan ontken; en

(ii) indien 'n regter van die Hooggeregshof by 'n sitting in kamers gesertifiseer het dat hy die betrokke persoon in die geleentheid gestel het om sy saak voor te lê en dat, volgens die inligting (as daar is) deur die Kommissaris en deur daardie persoon aan hom voorgelê, dit blyk dat die in die sertifikaat vermelde bedrag volgens 'n finale vasstelling ingevolge die wette met betrekking tot boedelbelasting wat in daardie ander land of gebied van krag is, deur bedoelde persoon betaalbaar is,

by notice in writing require such person to pay the amount for which he has admitted liability or the amount so specified, as the case may be, on a date, at a place, and to a person specified in the notice, for transmission to the proper authority in such other country or territory.

(3) If such person fails to comply with the notice under sub-section (2), the amount in question may be recovered for transmission to the said authority as if it were a duty payable by such person under this Act, but subject, in the case of any amount to which any such certificate relates, to the outcome of any proceedings which such person may institute in such other country or territory for determining his liability for the said amount.

(4) No steps taken in any other country or territory under any arrangements referred to in sub-section (1), for the collection of an amount alleged to be due by any person under this Act and no judgment given against any such person in pursuance of such arrangements in such other country or territory for any such amount, shall affect his right to have his liability for any such amount determined in the Union in accordance with the provisions of this Act.

Penalties.

28. (1) Any person who—

(a) in relation to any matter dealt with in this Act, makes any fraudulent or false statement or representation knowing it to be fraudulent or false; or

(b) after having been called upon to do so by the Commissioner in terms of section *seven*, fails within the period prescribed by the Commissioner, to submit the return required to be submitted in terms of that section or knowingly omits from such return any particulars required by this Act to be included therein, shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) Any person who—

(a) being the secretary of a company, contravenes the provisions of sub-section (1) of section *twenty-one*; or

(b) fails to comply with the provisions of section *twenty-three*; or

(c) fails to comply with any reasonable requirement of the Commissioner or Master made for the purpose of carrying out any provision of this Act; or

(d) obstructs or hinders the Commissioner or Master in carrying out any provision of this Act,

shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds.

Regulations.

29. The Governor-General may make regulations for the better carrying out of the objects and purposes of this Act, including regulations as to the valuation of annuities or of fiduciary, usufructuary or other limited interests in property, the hearing of an appeal under section *twenty-four*, and the payment of fees to executors and other persons required to render returns under this Act in respect of property with regard to which no remuneration is payable under the provisions of section *sixty-nine* of the Administration of Estates Act, 1913 (Act No. 24 of 1913).

Forms to be prescribed.

30. The Commissioner may prescribe such forms as he may consider necessary for the proper carrying out of any provision of this Act or the regulations made thereunder.

Repeal of laws.

31. (1) The laws set out in the Second Schedule are hereby repealed to the extent set out in the third column of the said Schedule: Provided that the said laws shall continue to apply in relation to the estate of any person who died before the first day of April, 1955.

(2) Any agreement entered into and any proclamation issued under section *thirty-six bis* of the Death Duties Act, 1922 (Act No. 29 of 1922), and in force at the date of commencement of this Act, shall be deemed to have been entered into or issued also under section *twenty-six* of this Act.

Short title and date of commencement.

32. This Act shall be called the Estate Duty Act, 1955, and shall be deemed to have come into operation on the first day of April, 1955.

by skriftelike kennisgewing eis dat bedoelde persoon die bedrag waarvoor hy aanspreeklikheid erken het of die aldus vermelde bedrag, na gelang van die geval, moet betaal op 'n datum, by 'n plek en aan 'n persoon in die kennisgewing vermeld, vir versending aan die betrokke owerheid in daardie ander land of gebied.

(3) Indien so iemand in gebreke bly om aan die kennisgewing ingevolge sub-artikel (2) te voldoen, kan die betrokke bedrag vir oorsending aan bedoelde owerheid ingevorder word, asof dit 'n ingevolge hierdie Wet deur bedoelde persoon betaalbare belasting was, onderworpe, in die geval van 'n bedrag waarop so 'n sertifikaat betrekking het, aan die uitslag van 'n geding wat bedoelde persoon in daardie ander land of gebied mag instel ten einde sy aanspreeklikheid vir bedoelde bedrag te bepaal.

(4) Geen stappe wat ingevolge reëlins in sub-artikel (1) bedoel, in 'n ander land of gebied gedoen is om 'n bedrag in te vorder wat na bewering deur enigiemand ingevolge hierdie Wet verskuldig is, en geen vonnis uit hoofde van sodanige reëlins in bedoelde ander land of gebied vir so 'n bedrag teen so iemand gegee, raak so iemand se reg om sy aanspreeklikheid vir daardie bedrag ingevolge die bepalings van hierdie Wet in die Unie te laat bepaal nie.

28. (1) Iemand wat—

Strafbepalings.

- (a) met betrekking tot 'n aangeleentheid waaroor hierdie Wet handel, 'n bedrieglike of valse verklaring of voorstelling maak, met die wete dat dit bedrieglik of vals is; of
- (b) nadat hy kragtens artikel *sewe* deur die Kommissaris daartoe aangesê is, versuim om binne die deur die Kommissaris voorgeskrewe tydperk die opgaaf voor te lê wat volgens daardie artikel voorgelê moet word, of wetens besonderhede wat volgens hierdie Wet daarin verstrek moet word, uit so 'n opgawe weglaat, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyfhonderd pond of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met beide daardie boete en daardie gevangenisstraf.

(2) Iemand wat—

- (a) as sekretaris van 'n maatskappy, die bepalings van sub-artikel (1) van artikel *een-en-twintig* oortree; of
- (b) versuim om aan die bepalings van artikel *drie-en-twintig* te voldoen; of
- (c) versuim om aan 'n redelike vereiste deur die Kommissaris of Meester in verband met die uitvoering van hierdie Wet gestel, te voldoen; of
- (d) die Kommissaris of Meester by die uitvoering van 'n bepaling van hierdie Wet hinder of belemmer, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyftig pond.

29. Die Goewerneur-generaal kan regulasies uitvaardig vir die beter bereiking van die doeleindes en oogmerke van hierdie Wet, met inbegrip van regulasies betreffende die waardering van jaargelde, fidusiêre regte of regte van vruggebruik of ander beperkte regte op goed, die verhoor van 'n appêl ingevolge artikel *vier-en-twintig* en die betaling van gelde aan eksekuteurs en ander persone wat opgawes ingevolge hierdie Wet moet voorlê ten opsigte van eiendom met betrekking waartoe geen besoldiging kragtens die bepalings van artikel *nege-en-sestig* van die Boedelwet, 1913 (Wet No. 24 van 1913) betaalbaar is nie.

Regulasies.

30. Die Kommissaris kan die vorms voorskryf wat hy nodig ag vir die behoorlike uitvoering van enige bepaling van hierdie Wet of die regulasies uit hoofde daarvan uitgevaardig.

Vorms wat voorgeskryf moet word.

31. (1) Die wette wat in die Tweede Bylae vermeld word, word hiermee vir sover in die derde kolom van genoemde Bylae aangedui, herroep: Met dien verstande dat bedoelde wetsbepalings van toepassing bly met betrekking tot die boedel van 'n persoon wat voor die eerste dag van April 1955 te sterwe gekom het.

Herroeping van wette.

(2) 'n Ooreenkoms wat aangegaan en 'n proklamasie wat uitgevaardig is ingevolge artikel *ses-en-dertig bis* van die „Sterfrechten Wet, 1922” (Wet No. 29 van 1922), en wat van krag is by die inwerkingtreding van hierdie Wet, word geag ook ingevolge artikel *ses-en-twintig* van hierdie Wet aangegaan of uitgevaardig te gewees het.

32. Hierdie Wet heet die Boedelbelastingwet, 1955, en word geag op die eerste dag van April 1955 in werking te getree het.

Kort titel en datum van inwerkingtreding.

First Schedule.

RATES OF ESTATE DUTY.

Dutiable Amount of Estate.	Rate of Duty.
Where the dutiable amount— does not exceed £6,000	1 per cent. on the dutiable amount;
exceeds £6,000, but does not exceed £7,000	£60, plus 2 per cent. on the amount by which the dutiable amount exceeds £6,000;
“ £7,000 “ “ “ “ £8,000	£80, plus 3 per cent. on the amount by which the dutiable amount exceeds £7,000;
“ £8,000 “ “ “ “ £9,000	£110, plus 4 per cent. on the amount by which the dutiable amount exceeds £8,000;
“ £9,000 “ “ “ “ £10,000	£150, plus 5 per cent. on the amount by which the dutiable amount exceeds £9,000;
“ £10,000 “ “ “ “ £11,000	£200, plus 6 per cent. on the amount by which the dutiable amount exceeds £10,000;
“ £11,000 “ “ “ “ £12,000	£260, plus 7 per cent. on the amount by which the dutiable amount exceeds £11,000;
“ £12,000 “ “ “ “ £13,000	£330, plus 8 per cent. on the amount by which the dutiable amount exceeds £12,000;
“ £13,000 “ “ “ “ £14,000	£410, plus 9 per cent. on the amount by which the dutiable amount exceeds £13,000;
“ £14,000 “ “ “ “ £15,000	£500, plus 10 per cent. on the amount by which the dutiable amount exceeds £14,000;
“ £15,000 “ “ “ “ £16,000	£600, plus 11 per cent. on the amount by which the dutiable amount exceeds £15,000;
“ £16,000 “ “ “ “ £17,000	£710, plus 12 per cent. on the amount by which the dutiable amount exceeds £16,000;
“ £17,000 “ “ “ “ £18,000	£830, plus 13 per cent. on the amount by which the dutiable amount exceeds £17,000;
“ £18,000 “ “ “ “ £19,000	£960, plus 14 per cent. on the amount by which the dutiable amount exceeds £18,000;
“ £19,000 “ “ “ “ £20,000	£1,100, plus 15 per cent. on the amount by which the dutiable amount exceeds £19,000;
“ £20,000 “ “ “ “ £22,000	£1,250, plus 16 per cent. on the amount by which the dutiable amount exceeds £20,000;
“ £22,000 “ “ “ “ £24,000	£1,570, plus 17 per cent. on the amount by which the dutiable amount exceeds £22,000;
“ £24,000 “ “ “ “ £26,000	£1,910, plus 18 per cent. on the amount by which the dutiable amount exceeds £24,000;
“ £26,000 “ “ “ “ £28,000	£2,270, plus 19 per cent. on the amount by which the dutiable amount exceeds £26,000;
“ £28,000 “ “ “ “ £30,000	£2,650, plus 20 per cent. on the amount by which the dutiable amount exceeds £28,000;
“ £30,000 “ “ “ “ £35,000	£3,050, plus 21 per cent. on the amount by which the dutiable amount exceeds £30,000;
“ £35,000 “ “ “ “ £40,000	£4,100, plus 22 per cent. on the amount by which the dutiable amount exceeds £35,000;
“ £40,000 “ “ “ “ £45,000	£5,200, plus 23 per cent. on the amount by which the dutiable amount exceeds £40,000;
“ £45,000 “ “ “ “ £50,000	£6,350, plus 24 per cent. on the amount by which the dutiable amount exceeds £45,000;
“ £50,000 “ “ “ “ “	£7,550, plus 25 per cent. on the amount by which the dutiable amount exceeds £50,000;

Provided that the duty calculated in accordance with this table shall be subject to a rebate of an amount equal to duty so calculated upon a dutiable amount equal to the aggregate of—

- (i) an amount of five thousand pounds; and
- (ii) an amount of two thousand pounds in respect of every child of the deceased who survives him; and
- (iii) an amount of two thousand pounds in respect of every child of the deceased who predeceased him and who left issue or a spouse surviving the deceased; and
- (iv) an amount of ten thousand pounds in any case in which the deceased is survived by his spouse:

Provided further that where duty becomes payable upon the value of any movable or immovable property or on a value determined by reference to the value of any movable or immovable property and duty has, upon the death of any person (hereinafter referred to as the first-dying person), who died within three years prior to the death of the deceased, become payable upon

Eerste Bylae.

SKALE VAN BOEDELBELASTING.

Belasbare Bedrag van Boedel.	Skaal van Belasting.
Waar die belasbare bedrag— £6,000 nie te bowe gaan nie £6,000, maar nie £7,000 te bowe gaan nie	1 persent op die belasbare bedrag; £60, plus 2 persent op die bedrag waarmee die belasbare bedrag £6,000 oorskry;
£7,000, „ „ „ £8,000 „ „ „ „	£80, plus 3 persent op die bedrag waarmee die belasbare bedrag £7,000 oorskry;
£8,000, „ „ „ £9,000 „ „ „ „	£110, plus 4 persent op die bedrag waarmee die belasbare bedrag £8,000 oorskry;
£9,000, „ „ „ £10,000 „ „ „ „	£150, plus 5 persent op die bedrag waarmee die belasbare bedrag £9,000 oorskry;
£10,000, „ „ „ £11,000 „ „ „ „	£200, plus 6 persent op die bedrag waarmee die belasbare bedrag £10,000 oorskry;
£11,000, „ „ „ £12,000 „ „ „ „	£260, plus 7 persent op die bedrag waarmee die belasbare bedrag £11,000 oorskry;
£12,000, „ „ „ £13,000 „ „ „ „	£330, plus 8 persent op die bedrag waarmee die belasbare bedrag £12,000 oorskry;
£13,000, „ „ „ £14,000 „ „ „ „	£410, plus 9 persent op die bedrag waarmee die belasbare bedrag £13,000 oorskry;
£14,000, „ „ „ £15,000 „ „ „ „	£500, plus 10 persent op die bedrag waarmee die belasbare bedrag £14,000 oorskry;
£15,000, „ „ „ £16,000 „ „ „ „	£600, plus 11 persent op die bedrag waarmee die belasbare bedrag £15,000 oorskry;
£16,000, „ „ „ £17,000 „ „ „ „	£710, plus 12 persent op die bedrag waarmee die belasbare bedrag £16,000 oorskry;
£17,000, „ „ „ £18,000 „ „ „ „	£830, plus 13 persent op die bedrag waarmee die belasbare bedrag £17,000 oorskry;
£18,000, „ „ „ £19,000 „ „ „ „	£960, plus 14 persent op die bedrag waarmee die belasbare bedrag £18,000 oorskry;
£19,000, „ „ „ £20,000 „ „ „ „	£1,100, plus 15 persent op die bedrag waarmee die belasbare bedrag £19,000 oorskry;
£20,000, „ „ „ £22,000 „ „ „ „	£1,250, plus 16 persent op die bedrag waarmee die belasbare bedrag £20,000 oorskry;
£22,000, „ „ „ £24,000 „ „ „ „	£1,570, plus 17 persent op die bedrag waarmee die belasbare bedrag £22,000 oorskry;
£24,000, „ „ „ £26,000 „ „ „ „	£1,910, plus 18 persent op die bedrag waarmee die belasbare bedrag £24,000 oorskry;
£26,000, „ „ „ £28,000 „ „ „ „	£2,270, plus 19 persent op die bedrag waarmee die belasbare bedrag £26,000 oorskry;
£28,000, „ „ „ £30,000 „ „ „ „	£2,650, plus 20 persent op die bedrag waarmee die belasbare bedrag £28,000 oorskry;
£30,000, „ „ „ £35,000 „ „ „ „	£3,050, plus 21 persent op die bedrag waarmee die belasbare bedrag £30,000 oorskry;
£35,000, „ „ „ £40,000 „ „ „ „	£4,100, plus 22 persent op die bedrag waarmee die belasbare bedrag £35,000 oorskry;
£40,000 „ „ „ £45,000 „ „ „ „	£5,200, plus 23 persent op die bedrag waarmee die belasbare bedrag £40,000 oorskry;
£45,000, „ „ „ £50,000 „ „ „ „	£6,350, plus 24 persent op die bedrag waarmee die belasbare bedrag £45,000 oorskry;
£50,000	£7,550, plus 25 persent op die bedrag waarmee die belasbare bedrag £50,000 oorskry;

Met dien verstande dat die belasting ooreenkomstig hierdie tabel bereken, onderworpe is aan 'n korting van 'n bedrag gelyk aan belasting aldus bereken op 'n belasbare bedrag gelyk aan die totaal van—

- (i) 'n bedrag van vyfduisend pond; en
- (ii) 'n bedrag van tweeduisend pond ten opsigte van iedere kind van die oorledene wat hom oorleef; en
- (iii) 'n bedrag van tweeduisend pond ten opsigte van iedere kind van die oorledene wat voor hom te sterwe gekom het en wat nakomelinge of 'n eggenoot nagelaat het wat die oorledene oorleef; en
- (iv) 'n bedrag van tienduisend pond in 'n geval waar die oorledene deur sy eggenoot oorleef word:

Met dien verstande voorts dat waar belasting betaalbaar word op die waarde van enige roerende of onroerende goed of op 'n waarde wat bepaal is deur verwysing na die waarde van enige roerende of onroerende goed en belasting by die dood van enige persoon (hierna die eerssterwende persoon genoem), wat binne drie jaar voor die dood van die oorledene te sterwe gekom het, betaalbaar

the value of that movable or immovable property or upon a value determined by reference to the value of that movable or immovable property (or any movable or immovable property for which the Commissioner is satisfied that that movable or immovable property has been substituted), the duty attributable to the value of that movable or immovable property or, as the case may be, the value determined by reference to the value of that movable or immovable property, but not exceeding (in either case) an amount equal to the value on which duty has become payable on the death of the first-dying person shall be reduced by a percentage according to the following scale—

if the deceased dies within six months of the death of the first-dying person	100 per cent.
if the deceased dies more than six months, but not more than one year after the death of the first-dying person ..	60 per cent.
if the deceased dies more than one year, but not more than two years after the death of the first-dying person ..	40 per cent.
if the deceased dies more than two years, but not more than three years after the death of the first-dying person	20 per cent.

subject to a maximum reduction equal to so much of the duty previously payable upon the death of the first-dying person as is attributable to the value of that movable or immovable property or, as the case may be, to an amount equal to the value determined by reference to the value of that movable or immovable property, and as is proved to the satisfaction of the Commissioner to have been borne by the deceased.

Second Schedule.

LAWS REPEALED.

Number and Year of Law.	Title.	Extent of Repeal.
Act No. 29 of 1922	Death Duties Act, 1922	The whole.
Act No. 31 of 1925	Death Duties Act, 1922, Amendment Act, 1925.	The whole.
Act No. 34 of 1930	Financial Adjustments Act, 1930 ..	Section <i>ten</i> .
Act No. 64 of 1934	Finance Act, 1934	Section <i>ten</i> .
Act No. 33 of 1939	Finance Act, 1939	Section <i>twelve</i> .
Act No. 23 of 1942	Death Duties Amendment Act, 1942	The whole.
Act No. 33 of 1944	Death Duties Amendment Act, 1944	The whole.
Act No. 46 of 1945	Finance Act, 1945	Sections <i>sixteen</i> and <i>seventeen</i> .
Act No. 60 of 1951	Death Duties Amendment Act, 1951	The whole.
Act No. 33 of 1954	Death Duties Amendment Act, 1954	The whole.

geword het op die waarde van bedoelde roerende of onroerende goed of op 'n waarde wat bepaal is deur verwysing na die waarde van bedoelde roerende of onroerende goed (of roerende of onroerende goed wat die Kommissaris oortuig is deur bedoelde roerende of onroerende goed vervang is), word die belasting wat toe te skrywe is aan die waarde van bedoelde roerende of onroerende goed of, na gelang van die geval, die waarde wat bepaal is deur verwysing na die waarde van bedoelde roerende of onroerende goed, maar hoogstens 'n bedrag in iedere geval gelyk aan die waarde waarop belasting by die dood van die eerssterwende persoon betaalbaar geword het, volgens 'n persentasie ooreenkomstig die volgende skaal verminder—

indien die oorledene binne ses maande na die dood van die eerssterwende persoon te sterwe kom	100 persent
indien die oorledene meer dan ses maande maar hoogstens 'n jaar na die dood van die eerssterwende persoon te sterwe kom	60 persent
indien die oorledene meer dan 'n jaar maar hoogstens twee jaar na die dood van die eerssterwende persoon te sterwe kom	40 persent
indien die oorledene meer dan twee jaar maar hoogstens drie jaar na die dood van die eerssterwende persoon te sterwe kom	20 persent

onderworpe aan 'n maksimum korting gelyk aan soveel van die belasting wat voorheen by die dood van die eerssterwende persoon betaalbaar was as wat toe te skrywe is aan die waarde van bedoelde roerende of onroerende goed of, na gelang van die geval, aan 'n bedrag gelyk aan die waarde wat bepaal is deur verwysing na die waarde van bedoelde roerende of onroerende goed, en wat na oortuiging van die Kommissaris bewys word deur die oorledene gedra te gewees het.

Tweede Bylae.

WETTE HERROEP.

No. en jaar van Wet.	Titel.	Omvang van Herroeping.
Wet No. 29 van 1922	„Sterfrechten Wet”, 1922	Die geheel.
Wet No. 31 van 1925	„Sterfrechten Wet, 1922, Wijzigings Wet”, 1925.	Die geheel.
Wet No. 34 van 1930	Finansiële Reëlingswet, 1930	Artikel <i>tien</i> .
Wet No. 64 van 1934	Finansiewet, 1934	Artikel <i>tien</i> .
Wet No. 33 van 1939	Finansiewet, 1939	Artikel <i>twaalf</i> .
Wet No. 23 van 1942	Wysigingswet op Sterfregte, 1942	Die geheel.
Wet No. 33 van 1944	Wysigingswet op Sterfregte, 1944	Die geheel.
Wet No. 46 van 1945	Finansiewet, 1945	Artikels <i>sestien</i> en <i>sewentien</i> .
Wet No. 60 van 1951	Wysigingswet op Sterfregte, 1951	Die geheel.
Wet No. 33 van 1954	Wysigingswet op Sterfregte, 1954	Die geheel.