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GOVERNMENT GAZETTE

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KAAPSTAD, 11 OKTOBER 1974

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1846.

11 October 1974.

No. 1846.

11 Oktober 1974.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 44 of 1974: Railways and Harbours Acts Amendment Act, 1974.

No. 44 van 1974: Wysigingswet op Spoorweg- en Hawe-wette, 1974.

Wet No. 44, 1974

WYSIGINGSWET OP SPOORWEG- EN HAWEWETTE, 1974.

WET

Tot wysiging van artikel 9 van die Spoorweg- en Hawe-aanleg Wet, 1931, om voorsiening te maak vir die verdere opskorting van die reg om die private kaai en spoorweg by Port Nolloth aan te koop; tot wysiging van artikel 1 van die Konsolidasiewet op die Beheer en Bestuur van Spoorweë en Hawens, 1957, om die omskrywing van „spoorweë” uit te brei om enige terrein binne die perke van ’n lughawe in te sluit; tot wysiging van artikel 2 van laasgenoemde Wet om voorsiening te maak vir die endossering op titelbewyse dat sekere eiendom wat die Administrasie afstaan, nie afsonderlik van die eiendom van die transportnemer vervreem mag word nie; tot wysiging van artikel 58 van laasgenoemde Wet om vir die verkoop van sterk drank aan Bantoes op spoorwegstasies en die verskaffing daarvan by hawens voorsiening te maak; tot wysiging van artikel 7 van die Wet op Spoorweg- en Hawediens, 1960, om voorsiening te maak vir die tydperk van kennisgewing wat aan ’n dienaar in vaste diens by beëindiging van sy dienste op ander gronde as tugoortreding gegee moet word; tot wysiging van artikels 11, 13 en 32 van laasgenoemde Wet, tot herroeping van artikel 12 van die Tweede Wysigingswet op Spoorweg- en Hawewette, 1969, en tot wysiging van artikel 17 van die Spoorweg- en Hawepensioenwet, 1971, om vir hersiene jaargelde en ander pensioentoegewings voorsiening te maak; tot wysiging van artikel 17 van die Wet op Spoorweg- en Hawediens, 1960, om dit met die bepalinge van artikel 1 (1) van die Wet op die Berekening van Skadevergoeding, 1969, in ooreenstemming te bring met betrekking tot ’n toekenning ten opsigte van ’n eis wat uit die dood van ’n dienaar in die loop van sy diens voortspruit; tot wysiging van artikel 20 van die Wet op Spoorweg- en Hawediens, 1960, om vir die toeken van medaljes en dekorasies aan lede van die Spoorwegpolisiemag volgens die goëddunke van die Minister voorsiening te maak; tot vervanging van artikel 23 van laasgenoemde Wet om dit vir ’n dienaar ’n oortreding te maak om sekere dienste te verrig terwyl die hoeveelheid alkohol in sy bloed ’n bepaalde persentasie oorskry en om vir die oplegging van ’n maksimumstraf vir so ’n oortreding voorsiening te maak; tot wysiging van artikel 2 van die Wet op Spooroor-gange, 1960, om vir ’n verhoging van stortings in die Fonds ter uitskakeling van Spooroor-gange voorsiening te maak; tot wysiging van die bepalinge van artikel 3 van laasge-noemde Wet in verband met die samestelling van die Staande Komitee insake Spooroor-gange; om sekere veranderings in diensvoorwaardes geldig te verklaar; en om vir ander aangeleenthede wat daarmee in verband staan, voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 3 Oktober 1974.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, 1974. Act No. 44, 1974

ACT

To amend section 9 of the Railways and Harbours Construction Act, 1931, so as to provide for the further deferment of the right to purchase the private jetty and railway at Port Nolloth; to amend section 1 of the Railways and Harbours Control and Management (Consolidation) Act, 1957, so as to extend the definition of "railways" to include any area within the limits of an airport; to amend section 2 of the said Act so as to provide for the endorsement of title deeds to the effect that certain property disposed of by the Administration may not be alienated separately from the property of the transferee; to amend section 58 of the said Act so as to provide for the sale of intoxicating liquor to Bantu on railway stations and for the supply thereof at harbours; to amend section 7 of the Railways and Harbours Service Act, 1960, so as to provide for the period of notice a servant in permanent employment is to be given on the termination of his services on grounds other than disciplinary infringement; to amend sections 11, 13 and 32 of the lastmentioned Act, to repeal section 12 of the Second Railways and Harbours Acts Amendment Act, 1969, and to amend section 17 of the Railways and Harbours Pensions Act, 1971, so as to provide for revised annuities and other pension benefits; to amend section 17 of the Railways and Harbours Service Act, 1960, so as to bring it into conformity with the provisions of section 1(1) of the Assessment of Damages Act, 1969, with regard to an award in respect of a claim arising from the death of a servant in the course of his duties; to amend section 20 of the Railways and Harbours Service Act, 1960, so as to provide for the award of medals and decorations to members of the Railway Police Force at the discretion of the Minister; to substitute section 23 of the lastmentioned Act to make it an offence for a servant to perform certain duties when the amount of alcohol in his blood exceeds a specified percentage and to provide for the imposition of a maximum penalty for such offence; to amend section 2 of the Level Crossings Act, 1960, so as to provide for an increase in contributions towards the Level Crossings Elimination Fund; to amend the provisions of section 3 of the lastmentioned Act pertaining to the constitution of the Permanent Level Crossings Committee; to validate certain changes in conditions of employment; and to provide for other incidental matters.

(Afrikaans text signed by the State President.)

(Assented to 3 October 1974.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Wet No. 44, 1974 WYSIGINGSWET OP SPOORWEG- EN HAWEWETTE, 1974.

Wysiging van artikel 9 van Wet 43 van 1931, soos gewysig deur artikel 20 van Wet 63 van 1951 en artikel 10 van Wet 49 van 1955.

1. Artikel 9 van die Spoorweg- en Hawe-aanleg Wet, 1931, word hierby gewysig deur die woord „vyf-en-veertig” deur die woord „vyf-en-sestig” te vervang.

Wysiging van artikel 1 van Wet 70 van 1957, soos gewysig deur artikel 5 van Wet 25 van 1959, artikel 6 van Wet 62 van 1961, artikel 5 van Wet 62 van 1962, artikels 11 en 44 van Wet 6 van 1965 en artikel 2 van Wet 24 van 1971.

2. Artikel 1 van die Konsolidasiewet op die Beheer en Bestuur van Spoorweë en Hawens, 1957 (hierna „die Beheer- en Bestuurwet” genoem), word hierby gewysig deur in subartikel (1) die omskrywing van „spoorweë” deur die volgende omskrywing te vervang:

„spoorweë”—

(a) alle spoorlyne binne die Republiek waaroor die Administrasie die beheer of die reg van treinloop het;

(b) alle gronde, stasies, sylyne, geboue, toerusting, masjinerie, rollende materiaal, en alle ander roerende of onroerende goed en serwitute wat gebruik word in verband met—

(i) so ’n spoorlyn; of

(ii) die Administrasie se padmotor-vervoerdienste; en

(c) enige terrein binne die perke van ’n lughawe;”.

Wysiging van artikel 2 van Wet 70 van 1957, soos gewysig deur artikel 1 van Wet 4 van 1958, artikel 3 van Wet 7 van 1963, artikel 5 van Wet 39 van 1963, artikel 2 van Wet 54 van 1964, artikels 12 en 44 van Wet 6 van 1965, artikel 1 van Wet 60 van 1968, artikel 3 van Wet 32 van 1969 en artikel 3 van Wet 24 van 1971.

3. Artikel 2 van die Beheer- en Bestuurwet word hierby gewysig deur na subartikel (1) die volgende subartikel in te voeg:

„(1)*bis* om by die registrasie van transport van onroerende goed wat ingevolge subartikel (1) vervreem is, die betrokke registrateur van aktes skriftelik te magtig om op die titelbewys van daardie onroerende goed en enige ander onroerende goed van die transportnemer ’n beperking aan te teken ten effekte dat daardie onroerende goed en daardie ander onroerende goed nie sonder die toestemming van die Administrasie afsonderlik van mekaar vervreem mag word nie. Bedoelde registrateur moet aan daardie magtiging gevolg gee op die wyse wat hy as die mees uitvoerbare en die gerieflikste beskou, en daarna is daardie beperking geldig en van krag teenoor alle persone behalwe teenoor iemand (met inbegrip van die Staat) ten gunste van wie ’n verband of ander las teen onroerende goed geregistreer is voordat bedoelde beperking op die titelbewys van daardie onroerende goed aangeteken is. Die Administrasie kan bedoelde registrateur skriftelik magtig om ’n beperking te rojeer, en die registrateur gee aan so ’n magtiging gevolg op die wyse wat hy as die mees uitvoerbare en die gerieflikste beskou. Die Administrasie kan, ondanks andersluidende wetsbepalings, die bedoelde magtiging verleen onderworpe aan die voorwaardes wat hy goedvind;”.

Wysiging van artikel 58 van Wet 70 van 1957, soos gewysig deur artikel 5 van Wet 7 van 1963, artikel 34 van Wet 6 van 1965 en artikel 8 van Wet 24 van 1971.

4. Artikel 58 van die Beheer- en Bestuurwet word hierby gewysig—

(a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

„(b) In die uitoefening van sy bevoegdhede kragtens paragraaf (a) kan die Administrasie sterk drank verkoop ook aan ’n Bantoe (soos in subartikel (7) van artikel *sestig bis* omskryf) wat agtien jaar oud of ouer is, en so ’n Bantoe kan sterk drank van die Administrasie koop en kan in besit wees van drank wat hy aldus gekoop het.”; en

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1. Section 9 of the Railways and Harbours Construction Act, 1931, is hereby amended by the substitution for the word "forty-five" of the word "sixty-five".
Amendment of section 9 of Act 43 of 1931, as amended by section 20 of Act 63 of 1951 and section 10 of Act 49 of 1955.
2. Section 1 of the Railways and Harbours Control and Management (Consolidation) Act, 1957 (hereinafter called "the Control and Management Act"), is hereby amended by the substitution for the definition of "railways", in subsection (1), of the following definition:
Amendment of section 1 of Act 70 of 1957, as amended by section 5 of Act 25 of 1959, section 6 of Act 62 of 1961, section 5 of Act 62 of 1962, sections 11 and 44 of Act 6 of 1965 and section 2 of Act 24 of 1971.
- "'railways' means—
- (a) all lines of railway within the Republic over which the Administration has control or running rights;
 - (b) all lands, stations, sidings, buildings, plant, machinery, rolling-stock and all other movable or immovable property and servitudes used in connection with—
 - (i) any such line of railway; or
 - (ii) the Administration's road motor transport services; and
 - (c) any area of land within the limits of an airport;"
3. Section 2 of the Control and Management Act is hereby amended by the insertion, after subsection (1), of the following subsection:
Amendment of section 2 of Act 70 of 1957, as amended by section 1 of Act 4 of 1958, section 3 of Act 7 of 1963, section 5 of Act 39 of 1963, section 2 of Act 54 of 1964, sections 12 and 44 of Act 6 of 1965, section 1 of Act 60 of 1968, section 3 of Act 32 of 1969 and section 3 of Act 24 of 1971.
- "(1)*bis* to authorize the registrar of deeds concerned in writing, when transfer is registered of immovable property alienated in terms of subsection (1), to endorse on the title deed of such immovable property and any other immovable property of the transferee, a restriction to the effect that such immovable property and such other immovable property shall not without the consent of the Administration be alienated separately. The said registrar shall give effect to the said authorization in such manner as may to him appear to be most practicable and convenient, and thereupon such restriction shall be valid and effective against all persons except against any person (including the State) in whose favour a mortgage bond or other charge was registered against any immovable property prior to the endorsement of the said restriction on the title deed of such immovable property. The Administration may authorize the said registrar in writing to cancel any restriction and the registrar shall give effect to any such authorization in such manner as may to him appear to be most practicable and convenient. The Administration may, notwithstanding anything to the contrary in any law contained, grant the said authorization subject to such conditions as it may deem fit;"
4. Section 58 of the Control and Management Act is hereby amended—
Amendment of section 58 of Act 70 of 1957, as amended by section 5 of Act 7 of 1963, section 34 of Act 6 of 1965 and section 8 of Act 24 of 1971.
- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
 - "(b) In the exercise of its powers under paragraph (a) the Administration may sell intoxicating liquor also to any Bantu (as defined in subsection (7) of section *sixty bis*) of the age of eighteen years or more, and any such Bantu may purchase intoxicating liquor from the Administration and may possess any liquor so purchased by him."; and

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WYSIGINGSWET OP SPOORWEG- EN HAWEWETTE, 1974.

(b) deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:

„(b) op 'n plek (behalwe 'n spoorwegaansluiting, 'n hawe of 'n lughawe) geleë buite 'n stedelike gebied soos omskryf in artikel honderd vyf-en-sewentig van die Drankwet, 1928 (Wet No. 30 van 1928); of”.

Wysiging van artikel 7 van Wet 22 van 1960, soos gewysig deur artikel 48 van Wet 6 van 1965 en artikel 8 van Wet 47 van 1973.

5. Artikel 7 van die Wet op Spoorweg- en Hawediens, 1960 (hierna „die Dienswet” genoem), word hierby gewysig deur na subartikel (1) die volgende subartikel in te voeg:

„(1A) By die beëindiging van sy diens op ander gronde as 'n tugoortreding is 'n dienaar in vaste diens geregtig op dertig dae kennisgewing of betaling in plaas daarvan.”.

Wysiging van artikel 11 van Wet 22 van 1960.

6. (1) Artikel 11 van die Dienswet word hierby gewysig deur paragraaf (c) deur die volgende paragraaf te vervang:

„(c) (i) 'n Amptenaar in paragraaf (b) bedoel wie se ononderbroke diens, met behoorlike inagneming van die bepalings van paragraaf (e), in die geheel vyftien jaar of langer was, en so 'n amptenaar wie se leeftyd vyf-en-veertig jaar of meer is en wie se ononderbroke diens in die geheel tien jaar of langer was, ontvang uit inkomste, na sy keuse, òf—

- (1) pensioenvoordele gelykstaande met die voordele (indien daar is) wat hy kragtens die Pensioenregulasies geregtig sou wees om te ontvang uit die fonds waarvan hy 'n lid is by sy uitdienstreding weens slegte gesondheid; òf
- (2) 'n gratifikasie en 'n terugbetaling van die bydraes (indien daar is) in genoemde paragraaf bedoel.

(ii) 'n Werksman in paragraaf (b) bedoel wie se ononderbroke diens twintig jaar of langer was, of so 'n werksman wat die leeftyd van vyftig bereik het en wie se ononderbroke diens tien jaar of langer was, ontvang uit inkomste, na sy keuse, òf—

- (1) pensioenvoordele gelykstaande met die voordele (indien daar is) wat hy kragtens die Pensioenregulasies geregtig sou wees om te ontvang uit die fonds waarvan hy 'n lid is by sy uitdienstreding weens slegte gesondheid; òf
- (2) 'n gratifikasie en 'n terugbetaling van die bydraes (indien daar is) in genoemde paragraaf bedoel.”.

(2) Subartikel (1) word geag op 1 Desember 1973 in werking te getree het.

Wysiging van artikel 13 van Wet 22 van 1960, soos gewysig deur artikel 13 van Wet 62 van 1961, artikels 49 en 60 van Wet 6 van 1965, artikel 4 van Wet 60 van 1968, artikel 2 van Wet 41 van 1969 en artikel 6 van Wet 85 van 1971.

7. (1) Artikel 13 van die Dienswet word hierby gewysig—

(a) deur paragraaf (dA) van subartikel (4) deur die volgende paragraaf te vervang:

„(dA) 'n Jaargeld betaalbaar ingevolge hierdie subartikel word verhoog met—

- (i) vyf persent indien die oorlede jaargeldtrekker op of voor die eerste dag van Desember 1973 opgehou het om 'n lid van die Nuwe Fonds te wees; en
- (ii) twee persent, jaarliks saamgestel, vanaf die eerste dag van die maand van die verjaardatum waarop 'n jaargeld die eerste keer aan die oorlede jaargeldtrekker betaalbaar geword het; sodanige verhogings word bereken van die datum waarop 'n jaargeld die eerste keer aan die oorlede jaargeldtrekker betaalbaar geword het.”;

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- (b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) at a place (other than a railway junction, a harbour or an airport) situate outside an urban area as defined in section *one hundred and seventy-five* of the Liquor Act, 1928 (Act No. 30 of 1928); or”.

5. Section 7 of the Railways and Harbours Service Act, 1960 (hereinafter called “the Service Act”), is hereby amended by the insertion, after subsection (1), of the following subsection:
- “(1A) On the termination of his employment on grounds other than a disciplinary infringement, a servant in permanent employment shall be entitled to thirty days notice or pay in lieu thereof.”

Amendment of section 7 of Act 22 of 1960, as amended by section 48 of Act 6 of 1965 and section 8 of Act 47 of 1973.

6. (1) Section 11 of the Service Act is hereby amended by the substitution for paragraph (c) of the following paragraph:

Amendment of section 11 of Act 22 of 1960.

- “(c) (i) Any officer referred to in paragraph (b) whose continuous employment, due regard being had to the provisions of paragraph (e), has in the aggregate been fifteen years or more, and any such officer whose age is forty-five years or more and whose continuous employment has in the aggregate been ten years or more, shall receive from revenue, at his option, either—

- (1) pension benefits equal in amount to the benefits (if any) he would be entitled to receive, in terms of the Pension Regulations, from the fund of which he is a member on his retirement owing to ill-health; or

- (2) a gratuity and a refund of the contributions, if any, referred to in the said paragraph.

- (ii) Any employee referred to in paragraph (b) whose continuous employment has been twenty years or more, or any such employee who has attained the age of fifty and whose continuous employment has been ten years or more, shall receive from revenue, at his option, either—

- (1) pension benefits equal in amount to the benefits (if any) he would be entitled to receive, in terms of the Pension Regulations, from the fund of which he is a member on his retirement owing to ill-health; or

- (2) a gratuity and a refund of the contributions, if any, referred to in the said paragraph.”.

- (2) Subsection (1) shall be deemed to have come into operation on 1 December 1973.

7. (1) Section 13 of the Service Act is hereby amended—

- (a) by the substitution for paragraph (dA) of subsection (4) of the following paragraph:

“(dA) An annuity payable in terms of this subsection shall be increased by—

- (i) five per cent if the deceased annuitant ceased to be a member of the New Fund on or before the first day of December, 1973; and

- (ii) two per cent, compounded annually, from the first day of the month of the anniversary of the date on which an annuity first became payable to the deceased annuitant, such increases being calculated from the date an annuity first became payable to the deceased annuitant.”;

Amendment of section 13 of Act 22 of 1960, as amended by section 13 of Act 62 of 1961, sections 49 and 60 of Act 6 of 1965, section 4 of Act 60 of 1968, section 2 of Act 41 of 1969 and section 6 of Act 85 of 1971.

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(b) deur paragraaf (dB) van subartikel (4) deur die volgende paragraaf te vervang:

„(dB) 'n Jaargeld betaalbaar ingevolge hierdie subartikel word voorts verhoog ooreenkomstig Pensioenregulasie No. 48.”;

(c) deur paragraaf (b) van subartikel (7) deur die volgende paragraaf te vervang:

„(b) Enige jaargeld toegeken aan 'n weduwee ingevolge die bepalings van subartikel (6), verhoog met tien persent of vyf persent, na gelang van die geval, word verhoog met twee persent, jaarliks saamgestel vanaf die eerste dag van die maand van die verjaardatum waarop 'n jaargeld eers aan die oorlede jaargeldtrekker betaalbaar geword het; sodanige verhoging word bereken van die datum waarop 'n jaargeld eers aan die oorlede jaargeldtrekker betaalbaar geword het.”; en

(d) deur paragraaf (c) van subartikel (7) deur die volgende paragraaf te vervang:

„(c) Enige jaargeld toegeken aan 'n weduwee ingevolge die bepalings van subartikel (6) word verder verhoog ooreenkomstig Pensioenregulasie No. 48.”.

(2) Paragrafe (b) en (d) van subartikel (1) word geag op 1 April 1973 in werking te getree het en paragrafe (a) en (c) van daardie subartikel word geag op 1 Desember 1973 in werking te getree het.

Wysiging van artikel 17 van Wet 22 van 1960, soos gewysig deur artikel 4 van Wet 54 van 1964, artikel 60 van Wet 6 van 1965, artikel 6 van Wet 8 van 1968 en artikel 3 van Wet 33 van 1972.

8. Artikel 17 van die Dienswet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) 'n Dienaar wie se verdienste, bereken volgens voorskrif van artikel 41 van die Ongevallewet, 1941 (Wet No. 30 van 1941), meer bedra as die som vermeld in artikel 3 (2) (b) van daardie Wet, word ondanks die bepalings van bedoelde artikel geag 'n werksman volgens die bedoeling van daardie Wet te wees: Met dien verstande dat, ondanks die bepalings van artikel 7 van daardie Wet of enige ander wetsbepalings, waar 'n ongeval, ten opsigte waarvan skadeloosstelling betaalbaar is, toe te skryf is aan die nalatigheid van die Administrasie of van 'n dienaar van die Administrasie, uitgesonderd die beseerde of oorlede dienaar, wat in die uitvoering van sy pligte optree, die dienaar of, as hy oorlede is, sy afhanklikes, 'n eis teen die Administrasie kan instel vir 'n toekenning gelykstaande met die geldelike verlies wat deur die ongeval veroorsaak is, min die skadeloosstelling betaalbaar ingevolge daardie Wet en enige ander voordeel (behalwe die versekeringsgeld, pensioen of voordeel in artikel 1 (1) van die Wet op die Berekening van Skadevergoeding, 1969 (Wet No. 9 van 1969), bedoel in die geval van 'n afhanklike se eis) wat as gevolg van die ongeval kan toeval.”.

Wysiging van artikel 20 van Wet 22 van 1960, soos gewysig deur artikel 10 van Wet 7 van 1963, artikel 6 van Wet 54 van 1964, artikel 51 van Wet 6 van 1965 en artikel 10 van Wet 47 van 1973.

9. Artikel 20 van die Dienswet word hierby gewysig deur paragraaf (a) van subartikel (2) die woord „Hoofbestuurder”, waar dit die eerste maal voorkom, deur die woord „Minister” te vervang.

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- (b) by the substitution for paragraph (dB) of subsection (4) of the following paragraph:

“(dB) An annuity payable in terms of this subsection shall be further increased in accordance with Pension Regulation No. 48.”;

- (c) by the substitution for paragraph (b) of subsection (7) of the following paragraph:

“(b) Any annuity granted to a widow in terms of subsection (6), increased by ten per cent or five per cent, as the case may be, shall be increased by two per cent, compounded annually, from the first day of the month of the anniversary of the date on which an annuity first became payable to the deceased annuitant, such increases being calculated from the date an annuity first became payable to the deceased annuitant.”; and

- (d) by the substitution for paragraph (c) of subsection (7) of the following paragraph:

“(c) Any annuity granted to a widow in terms of subsection (6) shall be further increased in accordance with Pension Regulation No. 48.”.

(2) Paragraphs (b) and (d) of subsection (1) shall be deemed to have come into operation on 1 April 1973 and paragraphs (a) and (c) of that subsection shall be deemed to have come into operation on 1 December 1973.

8. Section 17 of the Service Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A servant whose earnings, calculated in the manner set forth in section 41 of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), exceed the sum mentioned in section 3 (2) (b) of that Act shall, notwithstanding the provisions of the said section, be deemed to be a workman within the meaning of that Act: Provided that, notwithstanding anything in section 7 of that Act or in any other law contained, where an accident in respect of which compensation is payable is due to the negligence of the Administration or of a servant of the Administration, other than the injured or deceased servant, acting in the course of his employment, the servant or, if he is deceased, his dependants may claim an award from the Administration equivalent to the pecuniary loss caused by the accident, less the compensation payable in terms of that Act and any other benefit (other than the insurance money, pension or benefit referred to in section 1 (1) of the Assessment of Damages Act, 1969 (Act No. 9 of 1969), in the case of a dependant's claim) that may accrue as a result of the accident.”.

Amendment of section 17 of Act 22 of 1960, as amended by section 4 of Act 54 of 1964, section 60 of Act 6 of 1965, section 6 of Act 8 of 1968 and section 3 of Act 33 of 1972.

9. Section 20 of the Service Act is hereby amended by the substitution, in paragraph (a) of subsection (2), for the words “General Manager”, where they occur for the first time, of the word “Minister”.

Amendment of section 20 of Act 22 of 1960, as amended by section 10 of Act 7 of 1963, section 6 of Act 54 of 1964, section 51 of Act 6 of 1965 and section 10 of Act 47 of 1973.

Wet No. 44, 1974

WYSIGINGSWET OP SPOORWEG- EN HAWEWETTE, 1974.

Vervanging van artikel 23 van Wet 22 van 1960, soos gewysig deur artikel 14 van Wet 62 van 1961, artikel 13 van Wet 7 van 1963 en artikel 54 van Wet 6 van 1965 en vervang deur artikel 11 van Wet 47 van 1973.

10. Artikel 23 van die Dienswet word hierby deur die volgende artikel vervang:

„Dienare wat diens doen terwyl hulle onder invloed van alkoholiese drank of afhanklikheidsvormende medisyne verkeer of terwyl die persentasie alkohol in hulle bloed uitgedruk in gramme per honderd milliliter van bloed nie minder as 0,08 persent is nie.

23. 'n Dienaar wat onder die invloed van alkoholiese drank of afhanklikheidsvormende medisyne soos in die Wet op die Misbruik van Afhanklikheidsvormende Stowwe en Rehabilitasiesentrums, 1971 (Wet No. 41 van 1971), omskryf, verkeer of wie se bloed 'n persentasie alkohol bevat wat uitgedruk in gramme per honderd milliliter van bloed nie minder as 0,08 persent is nie—

- (a) terwyl hy beheer het oor of aan diens is as 'n drywer of ander bemanningslid van 'n lokomotief of ander masjien, of as 'n kaartjesonderzoeker of kondukteur, of as stasiemeester, stasievoorman, rangeerder, oorgangbewaker of seinwagter, of as 'n telegrafis of telefonis wat berigte afstuur of ontvang in verband met die beweging van treine, of as 'n loods, kraan-drywer of persoon belas met die toesig oor 'n regeeringsvaartuig of -skeepsmasjien; of
- (b) terwyl hy in 'n ander hoedanigheid as een van dié in paragraaf (a) vermeld, op diens is, en wie se verrigting van sy dienspligte terwyl hy in daardie toestand verkeer, allig die veiligheid van persone wat op spoorweg- of hawe-eiendom reis of hulle daarop bevind, in gevaar kan bring,

is in die geval van afhanklikheidsvormende medisyne aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die straf waarvoor in genoemde Wet op die Misbruik van Afhanklikheidsvormende Stowwe en Rehabilitasiesentrums, 1971, voorsiening gemaak word en is in die geval van alkoholiese drank of alkohol in die bloed aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens agthonderd rand of, by wanbetaling, met gevangenisstraf vir 'n tydperk van hoogstens twee jaar, of met sowel daardie boete as daardie gevangenisstraf.”.

Wysiging van artikel 32 van Wet 22 van 1960, soos gewysig deur artikel 18 van Wet 7 van 1963, artikel 58 van Wet 6 van 1965 en artikel 5 van Wet 18 van 1966.

11. (1) Artikel 32 van die Dienswet word hierby gewysig deur paragraaf (g)*bis* van subartikel (1) deur die volgende paragraaf te vervang:

„(g)*bis* die beheer en administrasie van die spaarfonds waartoe Nie-Blanke dienare bygedra het; die belegging van die gelde in die fonds; die betaling uit die fonds van die bedrag wat deur 'n dienaar daartoe bygedra is, tesame met rente daarop, ingeval die dienaar te sterwe kom of om enige rede die Diens verlaat; die berekening van die bedrag van sodanige rente; die persoon of persone aan wie betaling moet geskied van enige bedrag wat ten gevolge van die dood van 'n bydraer uit die fonds betaalbaar word; en die omstandighede waarin en voorwaardes waaronder terugbetaling van sy bydraes, met of sonder rente daarop, aan 'n bydraer, terwyl hy nog in die Diens is, kan geskied;”.

(2) Subartikel (1) tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

Wysiging van artikel 2 van Wet 41 van 1960, soos gewysig deur artikel 71 van Wet 6 van 1965, artikel 9 van Wet 8 van 1968, artikel 11 van Wet 24 van 1971 en artikel 6 van Wet 33 van 1972.

12. (1) Artikel 2 van die Wet op Spooroorgange, 1960, word hierby gewysig deur in subartikel (2) die woorde „viertienmiljoen vyfhonderdduisend rand” deur die woorde „sewemiljoen vyfhonderdduisend rand” te vervang.

(2) Subartikel (1) word geag op 1 April 1974 in werking te getree het.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, 1974. Act No. 44, 1974

10. The following section is hereby substituted for section 23 of the Service Act:

"Servants on duty while under the influence of alcoholic liquor or dependence-producing drugs or while the percentage of alcohol in their blood expressed in grams per one hundred millilitres of blood is not less than 0,08 per cent.

23. Any servant who is under the influence of alcoholic liquor or dependence-producing drugs as defined in the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act No. 41 of 1971), or whose blood contains a percentage of alcohol which, expressed in grams per one hundred millilitres of blood, is not less than 0,08 per cent—

(a) while in charge of or on duty as a driver or other member of the crew of a locomotive or other engine, or as a ticket examiner or guard, or as station master, station foreman, shunter, crossing attendant or signaller, or as a telegraphist or telephonist transmitting or receiving messages in relation to the movement of trains, or as a pilot, crane driver or person in charge of any Government craft or marine engine; or

(b) while on duty in any capacity other than one of those mentioned in paragraph (a) and whose performance of his duty while in such condition would be likely to endanger the safety of any person travelling or being on railway or harbour property,

shall in the case of dependence-producing drugs be guilty of an offence and liable on conviction to the penalty for which provision is made in the said Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971, and shall in the case of alcoholic liquor or alcohol in the blood be guilty of an offence and liable on conviction to a fine not exceeding eight hundred rand or, in default of payment, to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment."

Substitution of section 23 of Act 22 of 1960, as amended by section 14 of Act 62 of 1961, section 13 of Act 7 of 1963, section 54 of Act 6 of 1965 and substituted by section 11 of Act 47 of 1973.

11. (1) Section 32 of the Service Act is hereby amended by the substitution for paragraph (g)*bis* of subsection (1) of the following paragraph:

"(g)*bis* the control and administration of the savings fund to which non-White servants have contributed; the investment of the moneys in the fund; the payment from the fund of the amount contributed thereto by a servant, plus interest thereon, in the event of the servant's dying or for any reason leaving the Service; the calculation of the amount of such interest; the person or persons to whom any amount becoming payable from the fund in the event of a contributor's death, shall be paid; and the circumstances and conditions under which a contributor may be granted a refund of his contributions, with or without interest thereon, whilst still in the Service;"

Amendment of section 32 of Act 22 of 1960, as amended by section 18 of Act 7 of 1963, section 58 of Act 6 of 1965 and section 5 of Act 18 of 1966.

(2) Subsection (1) shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

12. (1) Section 2 of the Level Crossings Act, 1960, is hereby amended by the substitution, in subsection (2), for the words "four million five hundred thousand rand" of the words "seven million five hundred thousand rand".

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1974.

Amendment of section 2 of Act 41 of 1960, as amended by section 71 of Act 6 of 1965, section 9 of Act 8 of 1968, section 11 of Act 24 of 1971 and section 6 of Act 33 of 1972.

Wet No. 44, 1974 WYSIGINGSWET OP SPOORWEG- EN HAWEWETTE, 1974.

Wysiging van
artikel 3 van
Wet 41 van 1960,
soos gewysig deur
artikel 72 van
Wet 6 van 1965.

13. Artikel 3 van die Wet op Spoorroorgange, 1960, word hierby gewysig deur subparagraaf (iii) van subartikel (2) (a) deur die volgende subparagraaf te vervang:

„(iii) die Sekretaris van Vervoer drie benoem, uit persone wat by die Departement van Vervoer in diens is, van wie een 'n persoon moet wees wat hom in die siviele ingenieurswese bekwaam het.”

Herroeping van
artikel 12 van
Wet 41 van 1969,
soos gewysig deur
artikel 9 van
Wet 85 van 1971.

14. (1) Artikel 12 van die Tweede Wysigingswet op Spoorweg- en Hawewette, 1969, word hierby herroep.

(2) Subartikel (1) word geag op 1 Desember 1973 in werking te getree het.

Wysiging van
artikel 17 van
Wet 35 van 1971,
soos vervang deur
artikel 14 van
Wet 33 van 1972.

15. (1) Artikel 17 van die Spoorweg- en Hawepensioenwet, 1971, word hierby gewysig deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:

„(a) Wanneer lidmaatskap van die Nuwe Fonds teruggedateer word, word daar van die lid verwag om agterstallige bydraes in die Nuwe Fonds te stort op onderstaande grondslag:

(i) Vir die tydperk van onafgebroke diens voor die eerste dag van die betaalmaand April 1971, teen die skaal voorgeskryf in artikel 8 van die Wet op die Spoorweg- en Hawesuperannuasiefonds, 1960 (Wet No. 39 van 1960), ooreenkomstig sy leeftyd op die datum vanaf welke die betaling van bydraes verskuldig is, bereken op die pensioengewende emolumente deur hom ontvang gedurende die tydperk wat gedek moet word tot die laaste dag van die betaalmaand Maart 1971;

(ii) vir die tydperk van onafgebroke diens vanaf die eerste dag van die betaalmaand April 1971 tot en met 30 November 1973, teen die koers van vier persent van die pensioengewende emolumente deur hom ontvang gedurende die tydperk wat gedek moet word;

(iii) vir die tydperk van onafgebroke diens vanaf 1 Desember 1973, teen die koers van ses persent van die pensioengewende emolumente deur hom ontvang gedurende die tydperk wat gedek moet word;

(iv) benewens die agterstallige bydraes voorgeskryf in subparagrafe (i), (ii) en (iii) moet die lid saamgestelde rente op sodanige agterstallige bydraes betaal ten opsigte van enige tydperk tot op die datum of datums waarop die betalings werklik geskied, teen die koers van vier-en-'n-half persent per jaar, driemaandeliks saamgestel.”

(2) Subartikel (1) word geag op 1 Desember 1973 in werking te getree het.

Geldigverklaring
van sekere
veranderings in
diensvoorwaardes.

16. Die veranderings in diensvoorwaardes waarvoor voorsiening gemaak is in Goewermentskennisgewing No. R.790, afgekondig op 18 Mei 1973, en ten opsigte waarvan die wysigende regulasies met betrekking daartoe nie deur die Staatspresident goedgekeur is voor die verstryking van die tydperk van drie maande vermeld in artikel 32 (3) van die Wet op Spoorweg- en Hawediens, 1960 (Wet No. 22 van 1960) nie, word hierby geldig verklaar met ingang van die datum waarop sodanige veranderings in werking gestel is.

Toepassing van
Wet op Suidwes-
Afrika.

17. Hierdie Wet en 'n wysiging daarvan is, met uitsondering van artikels 1, 12 en 13, ook in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel, van toepassing.

Korttitel.

18. Hierdie Wet heet die Wysigingswet op Spoorweg- en Hawewette, 1974.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, 1974. Act No. 44, 1974

13. Section 3 of the Level Crossings Act, 1960, is hereby amended by the substitution for subparagraph (iii) of subsection (2) (a) of the following subparagraph:

Amendment of section 3 of Act 41 of 1960, as amended by section 72 of Act 6 of 1965.

“(iii) the Secretary for Transport shall nominate three, from persons employed in the Department of Transport, one of whom shall be a person qualified in civil engineering.”.

14. (1) Section 12 of the Second Railways and Harbours Acts Amendment Act, 1969, is hereby repealed.

Repeal of section 12 of Act 41 of 1969, as amended by section 9 of Act 85 of 1971.

(2) Subsection (1) shall be deemed to have come into operation on 1 December 1973.

15. (1) Section 17 of the Railways and Harbours Pensions Act, 1971, is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

Amendment of section 17 of Act 35 of 1971, as substituted by section 14 of Act 33 of 1972.

“(a) Whenever membership of the New Fund is dated back, the member shall be required to pay arrear contributions to the New Fund on the following basis:

- (i) For the period of continuous service prior to the first day of the April, 1971, paymonth, at the rate prescribed in section 8 of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960), according to his age at the date from which contributions are to be paid, calculated on the pensionable emoluments drawn by him during the period to be covered up to the last day of the March, 1971, paymonth;
- (ii) for the period of continuous service from the first day of the April, 1971, paymonth up to and including 30 November, 1973, at the rate of four per cent of the pensionable emoluments drawn by him during the period to be covered;
- (iii) for the period of continuous service from 1 December, 1973, at the rate of six per cent of the pensionable emoluments drawn by him during the period to be covered;
- (iv) in addition to the arrear contributions prescribed in subparagraphs (i), (ii) and (iii), the member shall pay compound interest thereon in respect of any period up to the date or dates when the payments are actually made at the rate of four and one half per cent per annum, compounded quarterly.”.

(2) Subsection (1) shall be deemed to have come into operation on 1 December 1973.

16. The changes in conditions of employment for which provision was made in Government Notice No. R.790, published on 18 May 1973 and in respect of which the amending regulations relating thereto were not approved by the State President before the expiration of the period of three months mentioned in section 32 (3) of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), are hereby validated with effect from the date as from which such changes were brought into operation.

Validation of certain changes in conditions of employment.

17. This Act and any amendment thereof shall, with the exception of sections 1, 12 and 13 thereof, apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.

Application of Act to South West Africa.

18. This Act shall be called the Railways and Harbours Acts Amendment Act, 1974.

Short title.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, 1974. Act No. 44, 1974.

13. Section 3 of the Level Crossings Act, 1960, is hereby amended by the substitution for sub-paragraph (ii) of subsection (2) of the following subparagraph:

"(ii) the Secretary for Transport shall nominate three persons employed in the Department of Transport, one of whom shall be a person qualified in civil engineering."

14. (1) Section 12 of the Second Railways and Harbours Acts Amendment Act, 1969, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 December 1973.

15. (1) Section 17 of the Railways and Harbours Pensions Act, 1971, is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

"(a) Whenever membership of the New Fund is dated back, the member shall be required to pay arrears contributions to the New Fund on the following basis:

(i) For the period of continuous service prior to the first day of the April, 1971, payment, at the rate prescribed in section 8 of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960), according to his age at the date from which contributions are to be paid, calculated on the pensionable emoluments drawn by him during the period to be covered up to the last day of the March, 1971, payment;

(ii) for the period of continuous service from the first day of the April, 1971, payment up to and including 30 November, 1973, at the rate of four per cent of the pensionable emoluments drawn by him during the period to be covered;

(iii) for the period of continuous service from 1 December, 1973, at the rate of six per cent of the pensionable emoluments drawn by him during the period to be covered;

(iv) in addition to the first contributions prescribed in subparagraphs (i), (ii) and (iii), the member shall pay compound interest thereon in respect of any period up to the date or dates when the payments are actually made at the rate of four and one half per cent per annum, compounded quarterly."

(2) Subsection (1) shall be deemed to have come into operation on 1 December 1973.

16. The changes in conditions of employment for which provision was made in Government Notice No. R.790, published on 18 May 1973 and in respect of which the amending regulations relating thereto were not approved by the State President before the expiration of the period of three months mentioned in section 22(3) of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), are hereby validated with effect from the date as from which such changes were brought into operation.

17. This Act and any amendment thereof shall, with the exception of sections 1, 12 and 13 thereof, apply also in the territory of South West Africa, including the Eastern Caprivi Strip.

18. This Act shall be called the Railways and Harbours Acts Amendment Act, 1974.