



Statutes
OF
The Transvaal,
1909,

With INDEX, TABLES OF CONTENTS (Alphabetical and
Chronological), and TABLE OF LAWS, Etc.,
REPEALED and AMENDED by these
STATUTES.

PUBLISHED BY AUTHORITY

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NO. OF LAW.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Law 3 of 1871 ..	Act 13, Sect. 1	Arts. 1, 2, 3, 6, and 10	—	—
Law 3 of 1871 ..	—	—	Act 13, Sect. 5	Art. 8, by substitution of certain words.
Law 3 of 1871 ..	—	—	Act 15, Sect. 2	As to fees on special licence to marry.
Law 5 of 1874 ..	Act 31, Sect. 1	The whole	—	—
Law 6 of 1874 ..	Act 31, Sect. 1	The whole	—	—
Law 13 of 1880 ..	—	—	Act 27, Sect. 1	Art. 2, as to definition of "other remuneration."
Executive Council Resolution 746 of 1889	Act 31, Sect. 1	The whole	—	—
Executive Council Resolution 786 of 1889	Act 31, Sect. 1	The whole	—	—
Law 1 of 1891 ..	Act 31, Sect. 1	The whole	—	—
Law 9 of 1891 ..	—	—	Act 15, Sect. 3	Schedule "C"; Annexure 3, Sect. 36 and Schedule to Annexure 2; generally as to fees chargeable by Surveyor-General.
Executive Council Resolution 897 of 1892	Act 31, Sect. 1	The whole	—	—
First Volksraad Resolution 1331 of 1892	Act 31, Sect. 1	So much as gave authority to the Executive Council to pass the resolution, No. 897 of 1892	—	—
Second Volksraad Resolution 856 of 1893	Act 31, Sect. 1	The whole	—	—
Executive Council Resolution embodied and adopted by last-named Second Volksraad Resolution	Act 31, Sect. 1	The whole	—	—

No. of Law.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
First Volksraad Resolution 1219 of 1893	Act 31, Sect. 1	The whole	—	—
Law 1 of 1894 ..	Act 31, Sect. 1	The whole	—	—
Second Volksraad Resolution 98 of 1894	Act 31, Sect. 1	The whole	—	—
First Volksraad Resolution 275 of 1894	Act 31, Sect. 1	The whole	—	—
Law 22 of 1894 ..	Act 31, Sect. 1	Art. 21	—	—
Law 4 of 1897 ..	Act 12, Sect. 3	The whole (subject to publication of certain regulations)	—	—
Law 4 of 1899 ..	—	—	Act 2, Sect. 1	Art. 5, by abolition of erf tax in certain municipalities.
Law 4 of 1899 ..	—	—	Act 2, Sect. 2	Art. 5, by suspension of erf tax in certain townships.
Law 4 of 1899 ..	—	—	Act 2, Sect. 3	By abolishing land tax payable on lots in townships.
Law 15 of 1899 ..	Act 28, Sect. 1	The whole	—	—
Proc. (Transvaal) 10 of 1901	Act 8, Sect. 1	The whole (save as to application to Ord. 6 of 1906 and Act 36 of 1907)	—	—
Proc. (Transvaal) 33 of 1901	Act 37, Sect. 1	The whole	—	—
Proc. (Transvaal) 10 of 1902	Act 25, Sect. 1	The whole	—	—
Proc. (Transvaal) 12 of 1902	—	—	Act 8, Sect. 13	Second Schedule, by exempting certain affidavits from stamp duty.
Proc. (Transvaal) 12 of 1902	—	—	Act 15, Sect. 4	Sect. 13, as to defacement of stamps.
Proc. (Transvaal) 12 of 1902	Act 15, Sect. 6 (3)	Sect. 21	—	—

No. OF LAW.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Proc. (Transvaal) 12 of 1902	—	—	Act 15, Sect. 6 (2)	Sect. 28, by the deletion of certain words.
Proc. (Transvaal) 12 of 1902	—	—	Act 15, Sect. 6	Sect. 42, by the addition of certain words.
Proc. (Transvaal) 12 of 1902	—	—	Act 15, Sect. 2	Second Schedule ; as to stamp duties payable on certain instruments.
Proc. (Transvaal) 17 of 1902	—	—	Act 15, Sect. 3	Schedule B ; as to fees chargeable by Sheriff.
Proc. (Transvaal) 22 of 1902	—	—	Act 15, Sect. 3	Schedule H ; as to fees payable in connection with Letters Patent.
Proc. (Transvaal) 28 of 1902	—	—	Act 15, Sect. 3	Schedule E ; as to fees chargeable by Master.
Ord. 31 of 1902 ..	Act 18, Sect. 1	Sects. 2 and 3	—	—
Ord. 32 of 1902 ..	—	—	Act 33, Sect. 4	As to definition of terms " town," "village," "stand township," and " proclaimed public diggings."
Ord. 32 of 1902 ..	Act 33, Sect. 1	Sect. 32	—	—
Ord. 32 of 1902 ..	—	—	Act 33, Sect. 6	Sect. 57, as to minimum penalty.
Ord. 1 of 1903 ..	—	—	Act 38, Sect. 8	Generally as to verdict of jury.
Ord. 1 of 1903 ..	—	—	Act 38, Sect. 8	Sect. 187, by the substitution of certain words.
Ord. 1 of 1903 ..	—	—	Act 38, Sect. 11	Sects. 262, 263, and 264, generally as to payment of compensation.
Ord. 10 of 1903 ..	—	—	Act 14, Sect. 1	Sect. 1, by substitution of certain words.
Ord. 17 of 1903 ..	Act 33, Sect. 1	Sects. 4 (5) and 6	—	—
Ord. 32 of 1903 ..	—	—	Act 22 ..	Generally extending powers and duties of Board.

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NO. OF LAW.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Ord. 32 of 1903 ..	—	—	Act 22, Sect. 1	Sect. 1, by the substitution of certain words.
Ord. 38 of 1903 ..	Act 23, Sect. 2	Sects. 1, 7, 8, 21, 22, 23, 25, 26, 27, 28, 29, 40, 41, 46, 47, and Schedule No. 1, as to municipal elections in Pretoria and Johannesburg	—	—
Ord. 43 of 1903 ..	—	—	Act 35, Sect. 3	Sect. 3, by the substitution of certain words and the addition of certain new paragraphs.
Ord. 43 of 1903 ..	—	—	Act 35, Sect. 4	Sect. 6, para. (5), and Sect. 7, generally as to valuation of agricultural land, etc., for purposes of rating.
Ord. 43 of 1903 ..	—	—	Act 35, Sect. 5	As to payment of rates by Mooi-bank settlers.
Ord. 43 of 1903 ..	—	—	Act 35, Sect. 5	Sect. 26, by exempting Mooi-bank settlers from necessity to produce certificate to obtain transfer.
Ord. 50 of 1903 ..	Act 32, Sect. 1	The whole	—	—
Ord. 54 of 1903 ..	Act 32, Sect. 1	The whole	—	—
Ord. 56 of 1903 ..	Act 31, Sect. 1	The whole	—	—
Ord. 58 of 1903 ..	Act 18, Sect. 1	Sect. 59 (5)	—	—
Ord. 63 of 1903 ..	—	—	Act 15, Sect. 1	As to licence duties for diamond dealers', brokers' and cutters' licences.
Ord. 65 of 1903 ..	Act 25, Sect. 1	The whole	—	—
Ord. 68 of 1903 ..	Act 33, Sect. 1	Sect. 3	—	—
Ord. 11 of 1904 ..	Act 25, Sect. 1	The whole	—	—

NO. OF LAW.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Ord. 29 of 1904 ..	Act 5, Sect. 1	Sect. 16	—	—
Ord. 29 of 1904 ..	—	—	Act 5, Sect. 2	Sects. 18 and 19, generally as to grant of certificates.
Ord. 30 of 1904 ..	Act 31, Sect. 1	The whole	—	—
Ord. 38 of 1904 ..	—	—	Act 26, Sects. 6 and 8	As to repayment of cost of erection of fences.
Ord. 38 of 1904 ..	Act 26, Sect. 7	Sect. 21	—	—
Ord. 39 of 1904 ..	—	—	Act 13, Sect. 8	Sect. 3, as to marriage fees.
Ord. 40 of 1904 ..	—	—	Act 15, Sect. 5	Sect. 1, as to stamping of notarial instruments.
Ord. 40 of 1904 ..	—	—	Act 15, Sect. 2	Sect. 6 (2), as to stamp duty on powers of attorney.
Ord. 41 of 1904 ..	Act 18, Sect. 1	Sect. 21 (2)	—	—
Ord. 48 of 1904 ..	—	—	Act 22 ..	Generally extending powers and duties of Board.
Ord. 48 of 1904 ..	Act 22, Sect. 2	Sects. 14, 15, and 16	—	—
Ord. 48 of 1904 ..	—	—	Act 22, Sect. 9 (4)	Sect. 56, as to construction to be placed on word "profits."
Ord. 48 of 1904 ..	—	—	Act 22, Sect. 7	Sect. 59, as to valuation of municipal section of rating roll.
Ord. 48 of 1904 ..	—	—	Act 22, Sect. 7	Sects. 64, 66, and 69, as to recovery of contributions payable by local authorities.
Ord. 48 of 1904 ..	—	—	Act 22, Sect. 11	Sect. 97, by the deletion of certain words.
Ord. 49 of 1904 ..	Act 23, Sect. 2	Sects. 1, 2, 3, and 4, as to municipal elections in Pretoria and Johannesburg	—	—

NO. OF LAW.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Ord. 2 of 1905 ..	Act 25, Sect. 1	Sect. 1 ..	—	—
Ord. 5 of 1905 ..	—	—	Act 15, Sect. 3	Schedule; generally as to fees chargeable by Master.
Ord. 6 of 1905 ..	—	—	Act 11, Sect. 9	Generally as to certain references.
Ord. 6 of 1905 ..	—	—	Act 11, Sect. 1	By repealing Sect. 3 and substituting new provisions.
Ord. 6 of 1905 ..	—	—	Act 11, Sect. 2	Sect. 4, by addition of new paragraph (<i>k</i>).
Ord. 6 of 1905 ..	—	—	Act 11, Sect. 5	Sect. 5, by the addition of certain words.
Ord. 6 of 1905 ..	—	—	Act 11, Sect. 4	Sect. 7, by the addition of new paragraph (<i>d</i>).
Ord. 6 of 1905 ..	—	—	Act 11, Sect. 5	Sect. 10, by substitution of new paragraph (<i>a</i>).
Ord. 6 of 1905 ..	—	—	Act 11, Sect. 6	Sect. 10, by addition of new paragraph (<i>d</i>).
Ord. 6 of 1905 ..	—	—	Act 11, Sect. 7	By repeal of Sect. 17 and substitution of new provisions.
Ord. 16 of 1905 ..	—	—	Act 15, Sect. 2	Schedule generally; and by deletion of certain words in paragraph (<i>g</i>), Item (2).
Ord. 23 of 1905 ..	—	—	Act 15, Sect. 1	Generally as to licence duties payable in respect of certain trades and businesses.
Ord. 23 of 1905 ..	Act 15, Sect. 1	Sects. 7 (2), (3), 8, 10, and 12 (4) and (5).	—	—
Ord. 23 of 1905 ..	—	—	Act 36, Sect. 4	Generally as to issue of new or transfer of existing licences.

NO. OF LAW.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Ord. 26 of 1905 ..	Act 23, Sect. 2	Sects. 2, 3, 4, 5, 8, and 9 (1), as to municipal elections in Pretoria and Johannesburg	—	—
Ord. 30 of 1905 ..	—	—	Act 22 ..	Generally extending powers and duties of Board.
Ord. 30 of 1905 ..	Act 22, Sect. 2	Sect. 2	—	—
Ord. 31 of 1905 ..	Act 32, Sect. 1	The whole	—	—
Ord. 6 of 1906 ..	—	—	Act 38, Sects. 13 and 15	Part VIII, as to appointment of board of visitors and committal of male children to reformatories.
Ord. 11 of 1906 ..	Act 32, Sect. 1	The whole	—	—
Ord. 19 of 1906 ..	—	—	Act 8, Sect. 9	Generally as to reporting deaths, issuing instructions by, and furnishing information to, magistrates.
Ord. 19 of 1906 ..	—	—	Act 13, Sect. 9	Sect. 34, by extending application to marriage registers.
Ord. 19 of 1906 ..	—	—	Act 13, Sect. 9	Sects. 36 and 37, as to definition of term "register."
Ord. 21 of 1906 ..	—	—	Act 22 ..	Generally extending powers and duties of Board.
Ord. 24 of 1906 ..	—	—	Act 23 ..	Generally as to municipal elections in Pretoria and Johannesburg.
Ord. 25 of 1906 ..	—	—	Act 4, Sect. 7	As to definition of expression "this Ordinance."
Ord. 25 of 1906 ..	—	—	Act 4, Sects. 1 and 2	By repealing Sect. 8 and substituting new provisions.

NO. OF LAW.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Act 9 of 1907 ..	—	—	Act 33, Sect. 7	Sect. 2, placing certain restrictions on holders of brewers' licences.
Act 10 of 1907 ..	—	—	Act 15, Sect. 1	Sect. 8, as to duty on licence to deal in arms and ammunition.
Act 13 of 1907 ..	—	—	Act 11, Sect. 1	By repealing Sect. 2 and substituting new provisions.
Act 13 of 1907 ..	Act 11, Sect. 5	Sect. 5	—	—
Act 25 of 1907 ..	—	—	Act 3, Sect. 10	Generally as to control of moneys.
Act 25 of 1907 ..	—	—	Act 3, Sect. 1	Sect. 5, by substitution of new paragraph (b) and addition of new paragraph (e).
Act 25 of 1907 ..	—	—	Act 3, Sect. 2	Sect. 6, by insertion of certain words.
Act 25 of 1907 ..	—	—	Act 3, Sect. 3	Sect. 9, by addition of certain words.
Act 25 of 1907 ..	—	—	Act 3, Sect. 4	Sect. 14, by substitution of certain words.
Act 25 of 1907 ..	—	—	Act 3, Sect. 5	Sect. 38 and Second Schedule, to enable school districts being made coterminous with polling districts.
Act 25 of 1907 ..	—	—	Act 3, Sect. 6	Sect. 57, by addition of certain words.
Act 25 of 1907 ..	—	—	Act 3, Sect. 7	Sect. 59, by addition of certain words.
Act 25 of 1907 ..	Act 3, Sect. 8	Sect. 70	—	—
Act 25 of 1907 ..	—	—	Act 3, Sect. 9	Sect. 79, by addition of certain words.
Act 25 of 1907 ..	—	—	Act 3, Sect. 11	Sect. 90, by addition of new paragraph (o) and sub-section (3).

No. of LAW.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Act 26 of 1907 ..	Act 17, Sect. 2	Sects. 4 and 5	—	—
Act 26 of 1907 ..	—	—	Act 17, Sect. 2	Sects. 3 and 10, as to membership of board.
Act 12 of 1908 ..	—	—	Act 26, Sect. 2	Extension of application of Act to municipal lands.
Act 12 of 1908 ..	—	—	Act 26, Sect. 1	Sect. 3, by the deletion of the words " of the freehold " in sub-section (1) and generally as to the legality of advances.
Act 12 of 1908 ..	—	—	Act 26, Sect. 3	Sect. 7 and Chapter II, as to definition of " owner."
Act 12 of 1908 ..	—	—	Act 26, Sect. 4	Sect. 22, by the deletion of the words " sub-sections (1) and (3) of."
Act 17 of 1908 ..	—	—	Act 21, Sect. 3	Generally as to lists of members.
Act 17 of 1908 ..	—	—	Act 21, Sect. 1	Sect. 4, generally as to dealings with other societies.
Act 17 of 1908 ..	—	—	Act 21, Sect. 2	Sect. 7, generally as to holding of meetings and selection of auditor.
Act 17 of 1908 ..	—	—	Act 21, Sect. 4	Sect. 16, as to period of holding annual general meeting.
Act 17 of 1908 ..	—	—	Act 21, Sect. 5	Sect. 17 (3), as to quorum at special meeting.
Act 17 of 1908 ..	—	—	Act 21, Sect. 5	Sect. 19, as to holding of special meeting.
Act 17 of 1908 ..	Act 21, Sect. 3 (9)	Sect 23 (2)	—	—
Act 17 of 1908 ..	—	—	Act 21, Sect. 6	Sect. 26, extending exemption from trading licences.

NO. OF LAW.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Act 19 of 1908 ..	—	—	Act 19, Sect. 7	Generally as to contributions to Pension Fund by female officers.
Act 19 of 1908 ..	—	—	Act 19, Sect. 1	Sect. 8 ⁽²⁾ (a), by the insertion of certain words.
Act 19 of 1908 ..	—	—	Act 19, Sect. 2	Sect. 13, by the addition of new paragraph (g).
Act 19 of 1908 ..	—	—	Act 19, Sect. 3	Sect. 14, as to imposition of fines for contravention of regulations.
Act 19 of 1908 ..	—	—	Act 19, Sect. 4	Section 14, by the insertion of certain words.
Act 19 of 1908 ..	—	—	Act 19, Sect. 5	Sect. 17, by the substitution of new sub-section (4).
Act 19 of 1908 ..	—	—	Act 19, Sect. 7	Sect. 18 (1), as to application of, to female officers.
Act 19 of 1908 ..	—	—	Act 19, Sect. 6	By repealing Sect. 20 and substituting new section.
Act 19 of 1908 ..	—	—	Act 19, Sect. 8	Sect. 27, by the addition of new sub-section (5).
Act 19 of 1908 ..	—	—	Act 19, Sect. 9	Sect. 41, by the addition of new sub-section (4).
Act 19 of 1908 ..	—	—	Act 19, Sect. 10	Sect. 47, by the addition of new sub-section (3).
Act 19 of 1908 ..	—	—	Act 19, Sect. 11	Sect. 52 generally as to payment of gratuities.
Act 19 of 1908 ..	—	—	Act 19, Sect. 12	Sect. 53, by the insertion and substitution of certain words.
Act 19 of 1908 ..	—	—	Act 19, Sect. 13	Sect. 59, by the addition of new sub-sections (4), (5), and (6).

NO. OF LAW.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Act 19 of 1908 ..	—	—	Act 19, Sect.14	Sect. 62, by the deletion of certain words.
Act 19 of 1908 ..	—	—	Act 19, Sect.15	Sect. 68, by the substitution of new paragraph (c).
Act 27 of 1908 ..	—	—	Act 7, Sect. 1	Generally as to where right to use water begins.
Act 28 of 1908 ..	—	—	Act 3, Sect. 5	Sect. 1, to enable school districts being made coterminous with polling districts.
Act 29 of 1908 ..	Act 25, Sect. 1	The whole, except Sects. 1 and 16	—	—
Act 32 of 1908 ..	—	—	Act 29, Sects. 5 and 6	Generally as to opening hours.
Act 32 of 1908 ..	—	—	Act 29, Sect. 2	Sect. 4, extending application to jurisdiction of Witbank Health Committee.
Act 32 of 1908 ..	—	—	Act 29, Sect. 3	Sect. 6, by the deletion and insertion of certain words.
Act 32 of 1908 ..	—	—	Act 29, Sect. 4	Sect. 11, by the insertion of the words "or during Sunday."
Act 32 of 1908 ..	Act 29, Sect. 3	Schedule, so far as it relates to fruiterers and vegetable-mongers	—	—
Act 34 of 1908 ..	—	—	Act 30, Sect. 1	By repeal of Sect. 4 and substitution of new section.
Act 34 of 1908 ..	—	—	Act 30, Sect. 2	Chaps. II and III, as to definition of "semi-Government township."
Act 34 of 1908 ..	—	—	Act 30, Sect. 3	Sect. 20 (3), by the addition of certain words.

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NO. OF LAW.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Act 34 of 1908 ..	—	—	Act 30, Sect. 4	Sect. 31, by the addition of certain words.
Act 34 of 1908 ..	—	—	Act 30, Sect. 5	Sect. 32, as to certain stands in Burghersdorp.
Act 34 of 1908 ..	—	—	Act 30, Sect. 6	Sect. 45, by the substitution of certain words and the registration of certain standholders.
Act 34 of 1908 ..	—	—	Act 30, Sect. 7	Sect. 47, by the deletion of certain words; the addition of new condition (4) and certain provisions as to registration.
Act 34 of 1908 ..	—	—	Act 30, Sect. 8	Sect. 50, by substitution of period of twelve months.
Act 34 of 1908 ..	—	—	Act 30, Sect. 9	Sect. 55, by the deletion of certain words and the addition of new sub-section (11).
Act 34 of 1908 ..	Act 25, Sect. 1	Sects. 57 and 58	—	—
Act 34 of 1908 ..	—	—	Act 30, Sect. 10	Sect. 60, by the deletion of certain words and addition of new sub-sections (3) and (5).
Act 35 of 1908 ..	—	—	Act 35, Sect. 2	Sect. 68 (1), by excluding application of Sect. 3 of Ord. 43 of 1903.
Act 35 of 1908 ..	—	—	Act 37, Sect. 3	Sect. 70, as to fencing of ground held under mining title for purposes of race-course.
Act 37 of 1908 ..	—	—	Act 17, Sect. 3	Sect. 5, by reduction of capital funds of bank.
Act 37 of 1908 ..	Act 17, Sect. 4	Sects. 13 and 14	—	—
Act 15 of 1909 ..	—	—	Act 36, Sect. 13	By exempting certain affidavits and sworn declarations from stamp duty.

ACT NO. 1 OF 1909.] [Came into operation 2nd July, 1909.

AN

Act No. 1
of 1909.

ACT

To apply a further sum not exceeding Six Hundred and Forty-five Thousand Two Hundred and Fifty Pounds Sterling for the Service of the year ending the thirtieth day of June 1909.

(Assented to 24th June, 1909.)

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

1. The public revenue of this Colony is hereby charged towards the service of the year ending on the thirtieth day of June 1909 with a further sum of six hundred and forty five thousand two hundred and fifty pounds sterling in addition to the several sums provided for by the Appropriation (Part 1908-1909) Act 1908 and the Appropriation (1908-1909) Act 1908.

Public Revenue charged with £645,250 for the year ending 30th June 1909.
2. The money granted by the Act shall not be applied to any use, intent, or purpose, other than the particular services specified in the Schedule to this Act.

Not to be applied otherwise than as granted.
3. No appropriation granted by this Act for any service described as Extraordinary Expenditure in the Schedule to this Act, shall lapse until the service in respect of which such appropriation was made has been completed.

Appropriation for Extraordinary Expenditure not to lapse until services completed.
4. The issue and payment from time to time by the Colonial Treasurer by warrant under the hand of the Governor of such sums of money as were or may be required for the purposes hereinbefore mentioned (not exceeding in the whole the sums respectively in that behalf specified) shall be deemed to have been or to be proper issues, and the Colonial Treasurer shall in his accounts be allowed credit for all sums paid by him in pursuance of any such warrant; and the receipts of the persons, to whom such sums shall have been so paid, shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

The Treasurer to make payments under warrant of the Governor.
5. This Act may be cited for all purposes as the Additional Appropriation (1908-1909) Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

Title and date of operation of Act.

* The Act was first published in the *Gazette* on the 2nd July, 1909.

Act No. 1
of 1909.

Schedule.
ORDINARY EXPENDITURE.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
5	Joint Parliamentary Expenses	Clerk of the Legislative Assembly	£1,400
11	Volunteers ...	Assistant Colonial Secretary...	1,700
22	Auditor-General ...	Auditor-General ...	1,850
23	Printing and Stationery	Government Printer ...	10,300
27	Pensions, Allowances and Gratuities	Secretary to the Treasury ...	13,000
28	Public Debt Services	" " " ...	43,000
29	Miscellaneous ...	" " " ...	16,000
31	Surveys ...	Surveyor-General ...	2,250
Total Ordinary Expenditure			<u>£89,500</u>

EXTRAORDINARY EXPENDITURE.

Letter No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
A.	Extirpation of Cattle Disease	Director of Agriculture...	£35,000
B.	General Telephone Extension	Postmaster-General ...	7,500
C.	Purchase of Cullinan Diamond	Secretary to the Treasury	43,350
E.	Adjustment of South African Constabulary Works Lan	" " "	82,900
F.	Arrear Government Contributions (with interest) to Pensions Fund	" " "	190,000
G.	Purchase of hypothecated properties by the Investment Board and on account of the Resettlement Loan Fund	Secretary for Lands ...	22,000
H.	Adjustment of Civil Servants House Loan Fund	Secretary for Public Works	175,000
Total Extraordinary Expenditure			<u>£555,750</u>

Summary.

Ordinary Expenditure ...	...	...	£89,500
Extraordinary Expenditure ...	...	...	555,750
Total ...	...	...	<u>£645,250</u>

ACT NO. 2 OF 1909.] [Came into operation 1st Jan., 1910.

AN

ACT

Act No. 2
of 1909.

To Amend the Law relating to the Payment of Erf Tax
and for other purposes.

(Assented to 28th June, 1909.)

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

1. From and after the coming into operation of this Act the tax payable under article *five* of Law No. 4 of 1899 in respect of erven or portions of erven within the municipalities mentioned in the Schedule to this Act shall be abolished. Abolition of erf tax in certain scheduled municipalities.
2. (1) From and after the coming into operation of this Act no tax shall be payable under article *five* of Law No. 4 of 1899 in respect of erven or portions of erven in the township of Balfour (formerly known as McHattiesberg), the township of Bloemhof, the township of Dullstroom, the township of Ohrigstad, the township of Geysdorp, the township of Meyerton, or the township of Komati Poort, save as in sub-section (2) is provided. Suspension of payment of erf tax in certain other townships till local authority constituted for the same.
- (2) As soon as the circumstances described in section *twelve* of the Townships Act 1907 have arisen in respect of any one of those townships the provisions of that section shall apply in respect of that township.
3. Notwithstanding anything contained in Law No. 4 of 1899 or in any law in force relating to the payment of land taxes in respect of farms no lot in any township shall be deemed to be a portion of a farm so as to render the owner liable to pay land tax in respect of that lot. Land tax not to be payable in respect of lots in townships.
4. Nothing in sections *one*, *two*, or *three* of this Act contained shall be deemed to exempt any owner of land therein described from liability to pay erf tax or land tax (as the case may be) due in respect of that land at any time prior to the thirty-first day of December 1909 and unpaid thereafter. Saving as to liability for part arrears.

TAXATION OF LAND AMENDMENT.
EDUCATION ACT FURTHER AMENDMENT.

4

**Act No. 2
of 1909.** Erf tax collected within jurisdiction of Health Committees to be paid over to same.

Title and date of operation of Act.

5. The Colonial Treasurer shall from time to time cause to be paid over to any Health Committee constituted under section *one* of Ordinance No. 3 of 1905 as amended by section *one* of Ordinance No. 7 of 1906, all sums collected as erf tax in respect of erven or portions of erven within the area of jurisdiction of that committee after the coming into operation of this Act.

6. This Act may be cited for all purposes as the Taxation of Land Amendment Act 1909 and shall come into operation on the first day of January 1910.

Schedule.

MUNICIPALITIES REFERRED TO IN SECTION *One*.

Heidelberg.
Klerksdorp.
Krugersdorp.
Middelburg.
Pietersburg.
Potchefstroom.
Standerton.
Carolina.
Christiana.
Ermelo.

Lydenburg.
Nylstroom.
Rustenburg.
Springs.
Ventersdorp.
Vereeniging.
Volksrust.
Wakkerstroom.
Zeerust.

ACT NO. 3 OF 1909.] [Came into operation 2nd July, 1909.

AN

ACT

To further amend the Education Act 1907.

(Assented to 28th June, 1909.)

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

Amendment of section *five* of Act No. 25 of 1907.

1. Section *five* of the Education Act 1907 (hereinafter referred to as the principal law) shall be and is hereby amended by the deletion therefrom of paragraph (*b*) and the substitution of the following new paragraph—

“(b) establish, maintain, or repair, or make grants in aid of the establishment, maintenance, or repair of boarding-houses and teachers' dwellings accessory to schools, classes, and institutions described in Chapters III, IV and V.”

and by the addition immediately after paragraph (d) of that section of the following new paragraph—

“(e) provide for transporting children either to or from any public school.”

Paragraph (e) of that section shall become paragraph (f).

2. Section *six* of the principal law shall be and is hereby amended by the insertion in the first line of sub-section (3) thereof immediately after the word “maintenance” of the words “or transport”.

Amendment of section *six* of Act No. 25 of 1907.

3. Section *nine* of the principal law shall be and is hereby amended by the addition thereto of the following words:—

Amendment of Act No. 25 of 1907.

“but any member of the Council shall have the right to enter any school, class, or institution established, maintained, or aided under this Act or any amendment thereof; provided he does not interrupt or interfere with the studies or work which is being carried on in that school, class, or institution.”

4. Section *fourteen* of the principal law shall be and is hereby amended by the deletion from sub-section (1) thereof of the words “not less than seven days’ notice shall be given of any meeting” and by the substitution for those words of the words “reasonable notice of every meeting of the Council shall be given”.

Amendment of section *fourteen* of Act No. 25 of 1907.

5. Notwithstanding anything contained in section *thirty-eight* of or the Second Schedule to the principal law or in section *one* of Act No. 28 of 1908, it shall not be necessary for a school district to be coterminous with one or more electoral divisions of the Colony provided it is coterminous with one or more polling districts of such electoral divisions, and the powers of the said sections may be exercised so as to constitute school districts coterminous with one or more such polling districts.

Amendment of section *thirty-eight* of Act No. 25 of 1907 and section *one* of Act No. 28 of 1908 so as to enable school districts to be coterminous with one or more polling districts.

6. Section *fifty-seven* of the principal law shall be and is hereby amended by the addition immediately after the word “institution” in the third line of sub-section (2) of the words “or any group of schools, classes, or institutions,” and by the further addition immediately after the word “institution” in the last line of that sub-section, of the words “or group of schools, classes, or institutions”.

Amendment of section *fifty-seven* of Act No. 25 of 1907.

**Act No. 3
of 1909.**

Amendment
of section
fifty-nine of
Act No. 25
of 1907.

7. Section *fifty-nine* of the principal law shall be and is hereby amended by the addition of the following words at the end of that section—

“A board may also advise the department with regard to the boundaries of the areas within which public schools should be provided for serving the educational needs of those areas.”

Repeal of
section
seventy of Act
No. 25 of
1907.

8. Section *seventy* of the principal law shall be and is hereby repealed.

Amendment
of section
seventy-nine
of Act No. 25
of 1907.

9. Section *seventy-nine* of the principal law shall be and is hereby amended by the addition immediately after the word “shall” in the fifth line thereof of the words “unless he is a substitute for a teacher who is on leave of absence”.

Financial.

10. Anything to the contrary notwithstanding in the principal law or any amendment thereof, the duty of accounting for and the power of controlling all such moneys as are described in section *eighty-five* of that law shall be vested in the officer named in the Schedule to any Appropriation Act as Accounting Officer for the Education Vote.

Amendment
of section
ninety of Act
No. 25 of 1907.

* **11.** Section *ninety* of the principal law shall be and is hereby amended by the addition to subsection (1) of the following new paragraph :—

“(o) prescribing the election and powers of the chairman and vice-chairman of any school committee, the filling of vacancies, the quorum at meetings, the keeping of minutes, the intervals at which meetings shall be held, the convening of special meetings, the appointment of secretary and treasurer, and generally the procedure to be adopted at meetings of school committees.”

and by the addition of the following new subsection (3) :

“All such regulations, or any alteration or rescission thereof, shall be published in the *Gazette*, and shall within seven days after such publication be laid upon the tables of both Houses of Parliament, if Parliament be then in session, or, if it be not then in session, within seven days after the commencement of its next ensuing session.”

Title and date
of operation
of Act.

12. This Act may be cited for all purposes as the Education Act Further Amendment Act 1909, shall come into operation on the date of its first publication as an Act in the *Gazette*, and shall be read as one with the principal law or any amendment thereof.†

* For regulations framed under this section see Govt. Notice No. 1051 of 1909 (*Gazette*, 11th Sept. 1909, para. 13).
† The Act was first published in the *Gazette* on the 2nd July, 1909.

ACT NO. 4 OF 1909.] [Came into operation 2nd July, 1909.]

AN

ACT

Act No. 4
of 1909.

To amend the Opium Trade Regulation Ordinance 1906 (No. 25 of 1906) and to further regulate the purchase, sale and possession of Opium.

(Assented to 28th June, 1909.)

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

1. (1) Section *eight* of the Opium Trade Regulation Ordinance 1906 (hereinafter referred to as the principal law) shall be and is hereby repealed, but any reference to that section in any unrepealed provision of the principal law shall be deemed a reference to this section or to section *two* of this Act. Repeal of section *eight* of Ordinance No. 25 of 1906 and substitution of new provisions.

* (2) During a period of six months immediately succeeding the date of the promulgation of this Act in the *Gazette*, but not afterwards, any district surgeon may, in his discretion, grant to a person residing in his district—

(a) who, in his opinion, acquired the habit of opium smoking or opium consumption prior to that date; and

(b) whose health would, in his opinion, be detrimentally affected by an immediate discontinuance of that habit,

a written permit to possess opium or extract of opium. The quantity in respect of which the permit is granted shall be specified therein and shall not exceed four ounces for one calendar month.

(3) No such permit shall be granted unless the person aforesaid gives his full name and address and impresses upon the permit and upon the district surgeon's records his digit prints.

(4) Any such permit shall be an authority to any registered chemist and druggist to sell to the person to whom the permit was granted the quantity of opium or extract of opium named therein or, as the case may be, the remainder of the quantity not yet supplied thereunder, and shall further be an authority to that person to be in possession of such quantity or remainder; but no opium shall be sold or supplied upon the authority of such permit unless that person furnishes to the

* This period expired on the 2nd Jan., 1910. See note to section *eight* (*post*).

**Act No. 4
of 1909.**

seller or supplier his full name and address and impresses in the records which the seller or supplier is required under the principal law to keep, his digit prints. The seller or supplier shall endorse upon the permit the date of the sale or supply, the quantity sold or supplied, and his signature.

(5) A fee of two shillings and sixpence shall be payable to the district surgeon for every such permit. That fee shall be paid by means of stamps affixed to the permit and those stamps shall be duly defaced by the district surgeon.

Sale of opium for medicinal purposes.

2. Opium or extract of opium may, after the promulgation of this Act, be sold by a registered chemist and druggist when prescribed by a registered medical practitioner as an incidental ingredient in any medicine, or when it occurs as an incidental ingredient in any recognised pharmacopœial preparation.

Sale of opium for medicinal purposes, and duties of persons selling same defined.

3. (1) Opium or extract of opium may, after the promulgation of this Act, also be sold or supplied for strictly medicinal purposes by a registered chemist and druggist upon a prescription of a registered medical practitioner. Every prescription of a medical practitioner issued under this subsection which prescribes opium or extract of opium for medicinal purposes shall state—

(a) the quantity which may be sold or supplied thereon ;

(b) the name and address of the person for whom it is prescribed ;

(c) the full name and address of the medical practitioner.

(2) Every person selling or supplying opium or extract of opium under the provisions of subsection (1) hereof shall retain the prescription upon which it was sold or supplied and any such person selling or supplying opium or extract of opium who shall fail so to retain the prescription shall be liable on conviction to the penalties mentioned in section *six* of the principal law.

(3) The provisions of section *five* of the principal law relative to the inspection of books and of section *six* thereof relative to the failure to produce books for inspection shall *mutatis mutandis* apply for the purpose of enabling prescriptions mentioned in this section to be inspected.

(4) Save as in sections *one* and *two* and in this section provided, no person shall sell or supply opium or extract of opium, anything in the Medical Dental and Pharmacy Ordinance 1904 notwithstanding.

(5) In any case in which the Medical Officer of Health for the Transvaal on information supplied has reason to suspect that a medical practitioner has prescribed opium or extract of opium in accordance with the provisions of this section for other than strictly medicinal purposes or in an excessive quantity, he shall report the circumstances of the case in terms of section *forty-four* of the Medical Dental and Pharmacy Ordinance 1904 to the Transvaal Medical Council for enquiry, and the Council, may on proof of the facts, recommend that the name of such medical practitioner be erased from the register of medical practitioners and that his certificate be withdrawn and cancelled.

4. (1) Save as in the principal law or in this Act is otherwise provided, no person shall be in possession of opium or extract of opium (whether in solid or in liquid form) or of any pipes, receptacles, or materials habitually used for opium smoking or opium consumption, nor shall any person keep any premises for opium smoking or opium consumption.

Prohibition of possession save as provided by Ordinance No. 25 of 1906 or this Act.

(2) Any person who contravenes section *seven* of the principal law or this section shall be liable to the penalties which may be imposed under that section, and if he be not naturalized or domiciled in this Colony, shall be liable, in addition, to be removed therefrom by warrant under the hand of the Colonial Secretary. If at any time after being so removed he return to this Colony without the written permission of the Colonial Secretary he shall be guilty of an offence and liable on conviction to imprisonment with or without hard labour without the option of a fine, for a period not exceeding one year, and at the expiration of his sentence to be again removed from the Colony.

5. All opium or extract of opium forfeited under the provisions of the principal law or this Act shall be burnt unless the Attorney-General otherwise directs in the presence of a commissioned officer of police, who shall transmit to the Attorney-General a certificate under his hand stating the circumstances under which the forfeiture took place, the amount forfeited, and other particulars showing his compliance with this section.

Destruction of forfeited opium.

6. The Colonial Treasurer may pay out of the public revenue of this Colony to a person (other than an officer in the Public or Railway Service) on whose information a charge is laid resulting in

Rewards to informers.

OPIUM TRADE REGULATION AMENDMENT.

MEDICAL

10 DENTAL AND PHARMACY FURTHER AMENDMENT.

Act No. 4
of 1909.

Reference in Ordinance No. 25 of 1906 to that Ordinance to include reference to it as amended by this Act.

Title and date of operation of Act.

a conviction under the principal law or this Act, a sum not exceeding twenty pounds.

7. Whenever in the principal law the expression "this Ordinance" is used that expression shall be deemed to mean the principal law as amended by this Act.

8. This Act may be cited for all purposes as the Opium Trade Regulation Amendment Act 1909, shall be read as one with the principal law and shall come into operation on the date of its promulgation as an Act in the *Gazette*.*

ACT NO. 5 OF 1909.] [Came into operation 2nd July, 1909.

Act No. 5
of 1909.

AN

ACT

To further amend the Medical Dental and Pharmacy Ordinance 1904 (Ordinance No. 29 of 1904).

(Assented to 28th June, 1909.)

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

ELECTION OF MEDICAL COUNCIL AND
PHARMACY BOARD.

Repeal of section *sixteen* of Ordinance No. 29 of 1904, from the date of the publication of regulations as to the conduct of elections of Medical Council or Pharmacy Board.

1. (1) Section *sixteen* of the Medical Dental and Pharmacy Ordinance 1904 (hereinafter referred to as the principal law) shall be and is hereby repealed; but the repeal of that section shall not take effect until the publication in the *Gazette* of regulations described in this section.

(2) The Governor-in-Council may from time to time make, alter, or rescind regulations (not inconsistent with any unrepealed provision of the principal law) prescribing the manner in which all future elections of the Transvaal Medical Council and of the Transvaal Pharmacy Board shall be conducted, including the manner and form of nomination of candidates for election, the manner and form in which votes shall be recorded for those candidates and counted, and the mode

* The Act was promulgated in the *Gazette* on the 2nd July, 1909.

of ascertaining and declaring the result. Penalties of fine or imprisonment for a contravention of those regulations may be prescribed not exceeding, in the case of a fine, fifty pounds, or, in case of imprisonment, six months with or without hard labour.

(3) All such regulations or any alteration or rescission thereof shall within seven days after the publication as aforesaid be laid upon the tables of Parliament, if Parliament be then in session, or if it be not then in session, within seven days after the commencement of its next ensuing session.

ADMISSION OF MEDICAL PRACTITIONERS AND
DENTISTS HOLDING FOREIGN DIPLOMAS.

2. (1) Anything to the contrary notwithstanding in section *eighteen* or *nineteen* of the principal law, a registration certificate entitling the holder to practise as a medical practitioner or dentist may, upon the recommendation of the Transvaal Medical Council, be granted to any person, being a British subject born or domiciled in any Colony or Territory of British South Africa, who has proceeded outside South Africa for the prosecution of his studies and has obtained the degree, diploma or certificate after examination by any such University or State Examining Board as is described in the next succeeding section, which entitles him as regards professional qualifications to practise as a medical practitioner or dentist in the country in which that University or State Examining Board is situate.

Grant of registration certificates as medical practitioners and dentists to British South Africans who have studied and obtained diplomas from certain foreign Universities or State Examining Boards.

(2) The provisions of the said section *eighteen* relative to the payment of a fee of ten pounds, to the submission of the degree certificate or diploma, and to the proof of identity and good character, shall apply in respect of a grant of a registration certificate under this section.

* (3) The provisions of this section shall come into operation on the date of the first publication of this Act as an Act in the *Gazette*.

3. The Governor-in-Council may from time to time prescribe that the degree, diploma, or certificate granted after examination by any University or State Examining Board whose curriculum and standard of examination required for such degree, diploma, or certificate is not lower than that prescribed by the General Council of Medical Education and Registration of the United Kingdom, shall entitle the holder thereof, being such a person as is described in the last preceding

Registration upon certificates etc. on examinations of equal standard with examinations prescribed by British Medical Council.

* The Act was first published in the *Gazette* on the 2nd July, 1909.

**Act No. 5
of 1909.**

section, to make application for registration as a medical practitioner or dentist in this Colony.

Title of Act. **4.** This Act may be cited for all purposes as the Medical Dental and Pharmacy Further Amendment Act 1909 and shall be read as one with the principal law or any amendment thereof.

ACT NO. 6 OF 1909.] [See section seven for date of operation.

**Act No. 6
of 1909.**

AN
ACT

**To regulate the Importation of Bees, Honey, and Beeswax
into this Colony.**

(Assented to 29th June, 1909.)

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

Interpreta- **1.** In this Act, unless inconsistent with the
tion of terms. context—

“department” shall mean the Department of Agriculture ;

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

“honey” shall include both honey in combs and extracted honey ;

“regulation” shall mean a regulation made under section *four*.

Prohibitions **2.** From and after the coming into operation of
as to this Act no person shall import or cause to be
importation. imported into this Colony,—

(a) from any place whatever, bees, without special permission of the department issued in accordance with regulation ;

(b) from any place outside South Africa, honey or beeswax ;

(c) from any place outside South Africa, used beehives or used beehive accessories or appliances or anything which has been used to contain or manipulate bees or beeswax.

Powers of **3.** Any officer of the department generally or
inspection specially authorized thereto by the Governor, may—
disinfection (a) inspect any consignment of bees imported
and under the permission aforesaid ;
destruction (b) inspect any consignment reasonably
by officer of suspected of containing anything imported
the department.

in contravention of this Act or the regulations;

(c) inspect any apiary or place where bees are kept;

(d) inspect any honey or beeswax which is intended for sale;

(e) cause to be cleaned or disinfected or destroyed any apiary or place where bees are kept if disease is found to exist therein;

(f) cause to be destroyed any bees, honey, or beeswax imported in contravention of this Act or the regulations or found to be affected with disease.

4. (1) The Governor may from time to time make, alter, or rescind regulations not inconsistent with this Act, prescribing—

Regulations.

(a) the form and the conditions of application for and issue of permissions under this Act to import bees, the particulars to be stated in such application and the officers of the department by whom such permissions shall be issued;

(b) the conditions of importation of bees, honey, and beeswax into this Colony;

(c) the mode of cleaning or disinfecting or destroying apiaries and places where bees are kept;

and generally for the better carrying out of the objects and purposes of this Act.

(2) All such regulations and any alteration or rescission thereof shall be of force and effect on publication in the *Gazette*.

(3) All such regulations or any alteration or rescission thereof shall, within seven days after the publication, be laid on the tables of both Houses of Parliament, if Parliament be then in session, or, if it be not then in session, within seven days after the commencement of its next ensuing session.

5. Any person who shall contravene any provision of this Act or the regulations shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and such imprisonment.

Penalties.

6. (1) The Governor may from time to time by proclamation in the *Gazette* declare that paragraph (a) of section two of this Act shall not apply in respect of the importation from any Colony or Territory in South Africa of bees native of that Colony or Territory, if therein a statute is in force prohibiting, under a penalty

Inapplicability of Act where reciprocal legislation exists in other Colonies or Territories of South Africa.

IMPORTATION OF BEES REGULATION.
IRRIGATION ACT AMENDMENT.

14

Act No. 6
of 1909.

not less than is mentioned in the last preceding section, the importation of bees (except under special permission) from any place into that Colony or Territory.

(2) If disease exists amongst bees in any Colony or Territory in respect of which the powers mentioned in sub-section (1) have been exercised, the Governor may revoke any such proclamation and thereupon the provisions of paragraph (a) of section *two* shall apply in respect of that Colony or Territory.

(3) If disease exists amongst bees in any Colony or Territory in South Africa, the Governor may by Proclamation in the *Gazette* extend the prohibitions contained in paragraphs (b) and (c) of section *one* in respect of importations from that Colony or Territory and until that Proclamation is withdrawn, those paragraphs shall be read as if the words "outside South Africa" were not contained therein.

Title and date of operation of Act.

7. This Act may be cited for all purposes as the Importation of Bees Regulation Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.

ACT NO. 7 OF 1909.] [Came into operation 2nd July, 1909.]

Act No. 7
of 1909.

AN
ACT

To amend the Irrigation Act 1908 (Act No. 27 of 1908).

(Assented to 28th June, 1909.)

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

Where right to use water of a public stream begins.

1. Any riparian proprietor (as in the Irrigation Act 1908 defined) who has the right to use the water of a public stream shall be deemed for the purposes of the said Act or any amendment thereof to have that right at any point higher up or lower down the course of that stream than the point at which the stream reaches his riparian farm, provided that he shall not thereby obtain the use of a larger quantity of water than he would have obtained if he had taken the use of the water at the last named point.

Title and date of operation of Act.

2. This Act may be cited for all purposes as the Irrigation Act Amendment Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

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* The Act was first published in the *Gazette* on the 2nd July, 1909.

ACT NO. 8 OF 1909.] [Came into operation 1st Aug., 1909.]

AN
ACT

**Act No. 8
of 1909.**

**To amend the Law relating to Inquests and other Enquiries
as to Deaths from non-natural causes.**

(Assented to 29th June, 1909.)

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

PRELIMINARY.

1. The Inquests Proclamation 1901 shall be and is hereby repealed; provided that the said Proclamation shall, notwithstanding its repeal by this section, be deemed to remain in force for the purposes of those provisions of the Workmen's Compensation Act 1907 to which, immediately before the commencement of this Act, the said Proclamation was applicable, and the said Proclamation shall continue to be deemed, for those purposes, the law referred to in section *six* of the said Workmen's Compensation Act; provided further that the said Proclamation shall also continue in force for the purposes of such inquests as are referred to in Ordinance No. 6 of 1906 or any other law for the time being regulating prisons and reformatories and the provisions of this Act shall not apply in respect of inquests on the bodies of persons detained in prisons and reformatories.

Repeal of
Proc. (Trans.)
No.10 of 1901.

2. In this Act, unless inconsistent with the context;

Interpreta-
tion of terms.

“imprisonment” shall mean imprisonment with or without hard labour as the court which passes sentence may direct;

“magistrate” shall mean a resident or assistant resident magistrate, and shall include also any civil or criminal magistrate of the district of Johannesburg and the person holding the office known as inspecting magistrate;

“medical practitioner” shall mean any person duly registered as such under any law of this Colony relating to the registration of medical practitioners;

“policeman” shall mean a European constable, non-commissioned officer, or commissioned officer of the police force established under

**Act No. 8
of 1909.**

the Transvaal Police Act 1908 or any amendment thereof ;

“ public prosecutor ” shall, as used in reference to an occurrence mentioned in this Act, mean the public prosecutor attached to the court of resident magistrate of the district or sub-district in which the occurrence took place, and, in the case of a court to which more than one public prosecutor is attached, shall mean the senior public prosecutor attached to that court.

**REPORTS, EXAMINATIONS, AND ENQUIRIES
AS TO NON-NATURAL DEATHS.**

Duty of persons finding bodies, etc., to report to police.

3. (1) It shall be the duty of every person—
(a) who shall find the dead body of a person who appears to have come by his death from violence or otherwise than from natural causes ; or

(b) to whom the knowledge of any such death shall come ; or

(c) to whom any such death shall be reported ; to notify as soon as possible the finding, knowledge, or report, together with any other facts in connection therewith which are known to him, to the person in charge of the nearest police station or police post or to a Field Cornet or Justice of the Peace, who shall forthwith cause the notification to be transmitted to the nearest police station or police post.

(2) No person, other than a medical practitioner, shall remove, disturb, or touch any human dead body found by him or any other person if the death appears to have been due to violence or to causes other than natural causes, until the body shall have been viewed by a policeman.

Duties of police on receipt of report or becoming acquainted with fact of non-natural death.

4. (1) Every policeman, whether notice of such death has been given under the last preceding section or whether he has heard of it in any other manner, shall enquire into the circumstances and causes of the death ; and shall transmit a report thereof in writing, verified by affidavit, to the public prosecutor. In that report he shall state the facts found by him and any conclusion at which he has arrived upon those facts and shall annex to the report any documents, relevant to the matter, which are in his possession.

(2) The public prosecutor may cause the dead body to be examined by a medical practitioner who shall, if possible, be the district surgeon, and may, if he has grounds for suspecting that the death was caused by an act

or omission of a criminal nature, issue an order in writing that the dead body, if interred, be disinterred for examination by such medical practitioner.

**Act No. 8
of 1909.**

5. A magistrate shall, whenever directed so to do by the Attorney-General, hold a public enquiry as to the circumstances and causes of any such death as is hereinbefore described, and report thereon to the Attorney-General.

Enquiries by magistrates.

* 6. (1) Notwithstanding anything in this Act contained, any enquiry held by an inspector of mines or inspector of machinery in accordance with Ordinance No. 54 of 1903 or any amendment thereof or any regulations made thereunder, as to an accident occurring at or upon any mine or works and causing death, shall be a sufficient examination for the purposes of this Act, unless the Attorney-General otherwise directs.

Special provisions as to accidents upon mines.

(2) Every inspector of mines or inspector of machinery holding such an enquiry shall transmit to the public prosecutor, as soon as may be, a certified copy of the records of the enquiry and of his report thereon, and shall in every case append to that copy a statement of opinion whether or not the death was due to an act or omission of a criminal nature or contravention of a statute or statutory regulation, on the part of any person, and, if so, on whose part.

MISCELLANEOUS.

7. (1) Every magistrate or inspector of mines or inspector of machinery required to hold an enquiry mentioned in this Act may put any person upon oath in relation to the subject of the enquiry and may administer an oath accordingly. Every such enquiry shall be conducted by a *viva voce* examination of witnesses.

Powers of officers as to examination of persons on oath and production of documents implements.

(2) Every magistrate, or such inspector as aforesaid, may demand for inspection, or the production of, any documents, implements, weapons, or anything whatsoever which a magistrate, or inspector has reason to believe will afford evidence relevant to the subject of an enquiry and, if the demand be not complied with, may, without any warrant, cause entry to be made upon any premises and the thing required to be searched for and seized.

(3) If any person refuses to answer any question put to him by a magistrate or inspector holding an enquiry mentioned in this Act or fails to comply with any demand made under sub-section (2), or wilfully insults the person holding an enquiry or wilfully interrupts the proceedings

**Act No. 8
of 1909.**

thereat he shall be guilty of an offence and liable on conviction before a court of resident magistrate to a fine not exceeding ten pounds or, in default of payment, to imprisonment for a period not exceeding one month; provided that nothing in this sub-section contained shall render any person liable to penalties for refusing to answer a question or failing to comply with any such demand, if the answer to the question or compliance with the demand would tend to incriminate him.

(4) Any person who makes default in attending as a witness at an enquiry mentioned in this Act at the time and place at which he is required so to attend and when summoned in the prescribed manner, shall, unless he satisfy the court that there was a reasonable excuse for the default, be liable to the penalties mentioned in sub-section (3) of this section.

Forms of
subpœna and
oath and fees
to witnesses.

8. The forms of *subpœna* for securing the evidence or presence of any person at an enquiry mentioned in this Act, the forms of oath to be used for, and the fees to be paid to witnesses attending, any such enquiry shall, as nearly as possible be in accordance with the forms of *subpœna* and oath used and the fees paid in a court of resident magistrate in criminal cases under the law for the time being relating to courts of resident magistrate.*

Amendment
of Ordinance
No. 19 of 1906
as to
reporting
deaths to
magistrates.

9. From and after the coming into operation of this Act all reports, which by the Births and Deaths Registration Ordinance 1906 are required to be made, in respect of a death, to a magistrate, shall be made to the public prosecutor; and any instructions which may be given and any orders authorizing burial which may be issued by a magistrate in accordance with that Ordinance, other than is mentioned in section *forty-one* thereof, shall be given or issued by the public prosecutor. The public prosecutor shall furnish the information which under that Ordinance is required to be furnished by a magistrate.

Penalty for
false
evidence.

10. Any person who, after an oath has been duly administered to him under this Act, gives false evidence, knowing the same to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

General
penalties.

11. Any person who shall contravene or fail to comply with any provision of this Act, for the contravention whereof or failure to comply where-with no penalty is specially provided, shall be

* For fees to witnesses in courts of resident magistrate in criminal cases see Govt. Notice No. 269 of 1909 (Gazette, 5th March, 1909), p. 526.

liable on conviction to a fine not exceeding twenty-five pounds, or, in default of payment, to imprisonment for a period not exceeding three months, or to such period of imprisonment without the option of a fine.

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of 1909.**

12. Nothing in this Act contained shall be deemed to abrogate or diminish any powers or duties conferred or imposed by law upon any Government officer, save as is specially provided in this Act.

Saving of other powers of officers.

13. Anything to the contrary notwithstanding in the Stamp Duties Amendment Proclamation 1902 or any amendment thereof no affidavit made for the purposes of this Act shall be chargeable with stamp duty.

Affidavits under Act exempt from stamp duty.

14. This Act may be cited for all purposes as the Inquests Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.*

Title and date of operation of Act.

ACT NO. 9 OF 1909.] [Came into operation 2nd July, 1909.

AN

**Act No. 9
of 1909.**

ACT

To apply a sum of money not exceeding Nine thousand Six hundred and Seventy pounds Sixteen shillings and Seven pence Sterling, for the purpose of meeting and covering certain Unauthorised Expenditure.

(Assented to 29th June, 1909.)

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

1. The public revenue of this Colony is hereby charged with the sum not exceeding nine thousand six hundred and seventy pounds sixteen shillings and seven pence sterling to meet certain expenditure over and above the amounts voted or appropriated for the service of the financial year which ended the thirtieth day of June 1908. Such expenditure is described on page xxx of the Report of the Auditor-General of this Colony on the Accounts of the Colony for the financial year

Revenue charged with £9670 16s. 7d. unauthorised expenditure of the year which ended 30th June 1908.

* This date was the 1st Aug., 1909. See Proc. No. 47 (Admn.), 1909 (*Gazette*, 9th July, 1909, p. 64).

UNAUTHORISED EXPENDITURE (1907-08).
20 RAILWAYS CONSTRUCTION AND ACQUISITION.

Act No. 9
of 1909.

1907-08, and is further specified in the Schedule to this Act.

Title and date of operation of Act. 2. This Act may be cited as the Unauthorised Expenditure (1907-08) Act 1909, and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

Schedule.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
(ORDINARY EXPENDITURE.)			
11	Printing and Stationery	Government Printer	£ s. d. 95 18 6
21	Treasury	Secretary to the Treasury	47 19 1
35	Public Works	Secretary for Public Works	4,109 9 6
(EXTRAORDINARY EXPENDITURE.)			
C.	Relief Works—Unemployed	Secretary for Public Works	5,417 9 6
			£9,670 16 7

ACT NO. 10 OF 1909.] [Came into operation 2nd July, 1909.]

Act No. 10
of 1909.

AN
ACT

To approve and provide for the Construction and Acquisition by the Railway Board of certain lines of railway in this Colony and to authorize the Government thereof to advance certain moneys to that Board.

(Assented to 29th June, 1909.)

† **W**HEREAS by article *ten (b)* of a Convention entered into between the Governments of The Transvaal and of the Orange River Colony, dated the second day of June, 1908, the terms of which are set forth in the First Schedule to the Inter-Colonial Conventions Ratification Act 1908, it was agreed that the Railway Board by such Convention constituted (hereinafter referred to as "the Board"), should have power to acquire or to construct lines of railway and to complete arrangements concerning the same, subject to the approval of the Parliament of the Colony in which any such line is situate or to be constructed, and that if such line be wholly within one Colony, then subject to the approval only of the Parliament of that Colony ;

* The Act was first published in the *Gazette* on the 2nd July, 1909.

† Sec p. 2 Digitized by the Open Source Scholarship & Digitisation Programme, University of Pretoria, 2016

And whereas the Board proposes to construct wholly within this Colony the lines of railway mentioned and described in the Schedule to this Act at a cost approximately not exceeding the several amounts respectively set opposite to the described route of the said lines in the said Schedule, and to acquire from the Government of this Colony the line of railway known as the Selati Line ;

**Act No. 10
of 1909.**

And whereas it is proposed that the moneys necessary for the construction of the said lines of railway shall be advanced on loan to the Board, by the Government of this Colony (hereinafter referred to as "the Government") out of the portion of the guaranteed loan mentioned in Head No. II of Act No. 8 of 1907, and upon the like terms to those upon which the Government is able to raise the said guaranteed loan, provided that the interest to be paid by the Board to the Government upon the advance does not exceed the rate of four per cent. per annum ;

And whereas it is necessary as hereinbefore recited that the construction of the said lines of railway and the acquisition of the said Selati Line by the Board be approved and that the advance of moneys by the Government to the Board to meet the cost of each such construction and acquisition be sanctioned by Parliament ;

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

1. The construction by the Board of the several lines of railway (together with all sidings, stations, buildings and other appurtenances necessary or incidental to the proper working of those lines when constructed) more particularly described and set forth in the Schedule to this Act, at a cost approximately not exceeding the several amounts respectively set opposite the described routes of these lines in the said Schedule is hereby approved. Construction of certain railway lines according to Schedule approved.
2. The acquisition by the Board from the Government, for the sum of three hundred thousand pounds, of the line of railway commencing at or near Komatipoort and extending to the farm "Newington," and commonly known as the "Selati Line," is hereby approved. Acquisition of Komati—Selati line of railway.
3. The Government is hereby authorized to advance to the Board out of the guaranteed loan raised under Act No. 8 of 1907 and more particularly out of that portion thereof described in Head II of the Schedule to that Act, a sum not exceeding one million two hundred and thirty thousand pounds sterling. Those moneys shall be advanced upon the terms and conditions following, that is to say :—
 - (1) the moneys advanced shall be applied by Authority and conditions for advance to Board out of guaranteed loan of 1907 a sum not exceeding £1,230,000 for construction of railway lines according to Schedule.

**Act No. 10
of 1909.**

the Board towards such railway construction as is mentioned in section *one* of this Act and is more particularly described in the Schedule thereto ;

(2) interest shall be paid half-yearly by the Board to the Colonial Treasurer upon any moneys so advanced at the same rate at which the said guaranteed loan is raised by the Government but not exceeding four per cent. per annum. Such interest shall be payable on such dates as the Colonial Treasurer may determine ;

(3) the Board shall pay to the Colonial Treasurer upon the same dates a sum equal to ten shillings per cent. on the amount advanced as aforesaid to enable the Government to meet sinking fund payments due or to become due by it under Act No. 8 of 1907 in respect of that proportion of the said guaranteed loan which represents the amount so advanced, or if His Majesty's Imperial Treasury shall certify that a greater sum is necessary for the purposes described in sub-section (2) of section *seven* of the said Act, then such greater sum ;

(4) the Board shall further pay to the Colonial Treasurer on the same dates a sum covering the expenses incidental to the issue of and the management charges of the said proportion ;

(5) so long as the administration and control of the Central South African Railways are vested in the Board, the said lines of railway described in the Schedule to this Act shall be worked by it and incorporated in and form part of its system of railways ; and whenever those lines of the Central South African Railways which are in this Colony cease to form part of that system, all the liabilities of the Board in respect of the said advances shall cease and determine.

Re-allocation
of moneys in
Schedule.

4. The Board may from time to time, with the approval of the Government, apply any savings which may be made under any Head or Heads in the Schedule to this Act to any other Head.

Title and date
of operation
of Act.

5. This Act may be cited for all purposes as the Railways Construction and Acquisition Act 1909, and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

* The Act was first published in the *Gazette* on the 2nd July, 1909.
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Schedule.

**Act No. 10
 of 1909.**

PARTICULARS OF LINES OF RAILWAY.

Description of Line of Railway.	Approximate Cost of Construction.	Approximate Length.
1. A line of railway being an extension of the Pretoria-Pietersburg Railway from Pietersburg to a point at or near Bandolier Kop	£ 250,000	64 miles.
2. A line of railway from Welverdiend Station to a point at or near Lichtenburg with a westerly extension from a point at or near "Treurfontein" No. 12	400,000	154 miles.
3. A line of railway being an extension from Ermelo to Piet Retief	255,000	72 miles.
4. A line of railway from Geduld Station via Benoni to a junction with the Germiston-Ermelo Railway at a point eight and a quarter miles east of Germiston	75,000	13 miles.
5. A line of railway being an extension of the Komati-Selati Railway to a point at or near the Great Letaba River [Note: Total estimated cost of construction is £550,000, of which £300,000 will be found out of Railway Surpluses for the year 1908-09.]	250,000	150 miles.
	£1,230,000	

ACT NO. 11 OF 1909.] [Came into operation 1st Oct., 1909.

AN
ACT

**Act No. 11
 of 1909.**

To further Amend the Game Preservation Ordinance 1905 (No. 6 of 1905) as amended by the Game Preservation Amendment Act 1907 (No. 13 of 1907).

(Assented to 30th June, 1909.)

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

1. Section *three* of the Game Preservation Ordinance 1905 (hereinafter referred to as the principal law) and section *two* of Act No. 13 of 1907 shall be and are hereby repealed and the following provisions shall be substituted therefor:—

" 3. The Governor may from time to time by proclamation in the *Gazette*—

Repeal of section *three* of Ordinance No. 6 of 1905 and section *two* of Act No. 13 of 1907 and substitution of new provision.

Act No. 11
of 1909.

(a) add to or withdraw from either part of the Schedule to this Ordinance the names of any bird or animal in respect of the whole Colony or any district or any portion of a district thereof ;

(b) prescribe, fix, and alter for this Colony or for any district or portion of a district thereof, the period of the close season within which it shall not be lawful (save as in this Ordinance or any amendment thereof is excepted) to hunt any species of game or one or other sex of any species of game ; or declare that there shall be no close season for any species of game or for one or other sex of any species of game throughout the whole Colony or throughout any district or any portion of a district thereof ;

(c) prescribe a list of game which shall be protected in this Colony or in any district or any portion of a district thereof for a specified period (not exceeding three years) and add to or otherwise vary that list ;

(d) impose a limit in respect of any district or portion of a district of this Colony upon the number of any species or of one or other sex of any species of game which may be hunted under any game licence in any district or portion of a district in this Colony ;

(e) define reserves within which it shall not be lawful to hunt game without the special permission in writing of the Colonial Secretary ;

(f) prescribe a list of birds and animals (other than those mentioned in the Schedule to this Ordinance) which on account of their general utility or for other reasons shall be protected from time to time and for such periods as may be deemed necessary, throughout this Colony or any district or portion of a district thereof ”.

All proclamations issued under the authority of the said sections shall remain in full force and effect until withdrawn or altered under the authority of this section.

Amendment
of section
four of
Ordinance
No. 6 of 1905.

2. Section *four* of the principal law as amended by Act No. 13 of 1907 shall be and is hereby further amended by the addition of the following new paragraph :—

“(k) regulating the importation into this Colony of game or the horns, tusks, skins, or hides of game.”

3. Section *five* of the principal law shall be and is hereby amended by the addition of the words “or from some neighbouring Colony” after the word “oversea” in sub-section (2) thereof.

Amendment of section *five* of Ordinance No. 6 of 1905.

4. Section *seven* of the principal law shall be and is hereby amended by the addition of the following new paragraph to sub-section (2) thereof :—

Amendment of section *seven* of Ordinance No. 6 of 1905.

“(d) for shooting in any district or portion of a district a larger number of any species or of one or other sex of any species of game than the limit imposed by proclamation issued under paragraph (d) of section *three*, a fine not exceeding one hundred pounds.”

5. Section *five* of Act No. 13 of 1907 shall be and is hereby repealed and paragraph (a) of section *ten* of the principal law shall read as follows :—

Repeal of section *five* of Act No. 13 of 1907.

“(a) for the owner or lessee of land (not being a native resident upon Crown land or in a location or native reserve or upon land used as a mission station) to hunt without a game licence, game upon that land except big game and game which may not be hunted under a game licence in the district or portion of a district in which the land is situated and, subject to the regulations made under sub-section (1) paragraph (j) of section *four*, to sell without a licence such game or biltong made from such game.”

6. Section *ten* of the principal law shall be and is hereby further amended by the addition of the following new paragraph :—

Amendment of section *ten* of Ordinance No. 6 of 1905.

“(d) for any owner or occupier of a farm, on which game has been confined by fencing, who has first obtained a permit in writing from the Colonial Secretary, to hunt, subject to the conditions and during the period specified in that permit, buck mentioned therein for his own use, and whether or not such buck be specially protected by proclamation issued under paragraph (c) of section *three* of this Ordinance ; provided that the occupier of that farm shall not be entitled to shoot such buck without the permission in writing of the owner of the farm. Any person who contravenes or fails to comply with any condition

**Act No. 11
of 1909.**

attached to a permit issued by the Colonial Secretary under this paragraph shall be liable on conviction to a fine not exceeding fifty pounds."

Repeal of section *seventeen* of Ordinance No. 6 of 1905.

7. Section *seventeen* of the principal law shall be and is hereby repealed and the following section shall be substituted therefor:—

"17. Whenever any fine shall have been imposed under the provisions of this Ordinance or any regulations made thereunder and the person convicted shall not forthwith pay the same the Court may order that such person be imprisoned with or without hard labour for a period—

(a) not exceeding one month if the fine imposed does not exceed five pounds ;

(b) not exceeding two months if the fine imposed does not exceed ten pounds ;

(c) not exceeding four months if the fin ; imposed does not exceed twenty poundse

(d) not exceeding six months if the fine imposed does not exceed twenty-five pounds ;

(e) not exceeding nine months if the fine imposed does not exceed fifty pounds ;

(f) not exceeding twelve months if the fine imposed does not exceed one hundred pounds ;

(g) not exceeding eighteen months if the fine imposed be above one hundred pounds ;

unless such fine be sooner paid."

Powers of warden and rangers of game reserves.

8. The warden, European rangers and native rangers of any reserve defined by proclamation issued under section *three* of the principal law or any amendment thereof shall have all such powers and shall perform such duties as are by law conferred or imposed respectively upon a police officer, European police constable, or native police constable.

References in Ordinance No. 6 of 1905 to be read in accordance with amendments made by this Act.

9. (1) Whenever the following paragraphs are mentioned in the principal law or regulations made thereunder the paragraphs mentioned opposite thereto shall be read in lieu thereof: that is to say—

For paragraph (a) of section *three* shall be read paragraph (b) of section *three*.

For paragraph (b) of section *three* shall be read paragraphs (c) and (f) of section *three*.

For paragraph (c) of section *three* shall be read paragraph (a) of section *three*.

For paragraph (d) of section *three* shall be read paragraph (e) of section *three*.

Act No. 11
of 1909.

(2) Wherever in any unrepealed provision of the principal law the expression "this Ordinance" or "regulations" or "regulations made thereunder" is used, any such expression shall be deemed to include respectively the principal law with any amendment thereof or any regulations made under the principal law as amended.

(3) Any expression defined in and for the purposes of the principal law or any amendment thereof shall, when used in this Act, bear the same meaning as is assigned to it for those purposes.

10. This Act may be cited for all purposes as the Game Preservation Further Amendment Act 1909, shall be read as one with the principal law as amended by Act No. 13 of 1907, and shall come into operation on a date to be fixed by the Governor by proclamation in the *Gazette*.*

Title and
date of
operation
of Act.

ACT NO. 12 OF 1909.] [Came into operation 2nd July, 1909.

AN

ACT

Act No. 12
of 1909.

To make better provision for the Eradication of Noxious Weeds.

(Assented to 30th June, 1909.)

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

1. In this Act and any regulations made thereunder— Interpretation of terms.

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

"noxious weed" shall mean *Xanthium Spinosum*, or any other plant which the Governor may declare by proclamation in the *Gazette* to be a noxious weed, either throughout the whole Colony or in one or more districts or portions of districts thereof.

Act No. 12 of 1909. Power to make regulations for the eradication of noxious weeds by occupiers, etc., of land.

2. (1) The Governor may from time to time make, alter, or rescind regulations—

(a) imposing upon the occupier of land, or in the case of unoccupied land, upon the owner thereof or his agent in this Colony, or in the case of land held under mining title, upon the holder of such title or his agent in this Colony, or in the case of Crown Land over which grazing rights have been granted upon the holder of those rights or his agent in this Colony the duty of clearing and keeping cleared that land of noxious weeds ;

(b) prescribing the manner in which any noxious weed shall be eradicated by persons subject to the duty of clearing and keeping land clear of it ;

(c) empowering any officers of the department of agriculture, or field cornets, or police officers and constables to enter upon any land and inspect the same and to give directions by written notice or otherwise to persons subject to the said duty to clear that land of any noxious weed ;

(d) prescribing the forms of any such notice, the particulars of directions to be given therein, and the manner in which it shall be served upon occupiers, owners, holders of mining title, holders of grazing rights or agents of such owners or holders ;

(e) empowering the officials described in paragraph (c) to eradicate noxious weeds in default of compliance with the requirements of any such notice by a person upon whom the same has been served ;

(f) providing for the recovery of the cost of eradication of noxious weeds from any such person who is so in default and the mode of such recovery ;

(g) preventing the introduction into this Colony or the sale of any plant, seed or grain, which is likely to propagate or spread the growth of noxious weeds ;

(h) generally for preventing the spread of noxious weeds in this Colony or any district or portion of a district thereof.

(2) Penalties may be imposed for a breach of or failure to comply with any such regulations not exceeding a fine of fifty pounds or in default of payment imprisonment with or without hard labour for a period of six months.

(3) All such regulations shall be of force and effect upon the publication thereof in the *Gazette*.

(4) All such regulations shall be laid upon the tables of Parliament within seven days after such publication, if Parliament be then in session, or, if it be not then in session, within seven days after the commencement of its next ensuing session.

**Act No. 12
of 1909.**

3. As from the date of the publication of any regulations made under section *two*, Law No. 4 of 1897 shall be repealed.

Repeal of
Law No. 4 of
1897.

4. This Act may be cited for all purposes as the Noxious Weeds Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

Title and
date of oper-
ation of Act.

ACT NO. 13 OF 1909.] [Came into operation, except as to section *eleven*, on the 1st Oct., 1909.

AN

ACT

**Act No. 13
of 1909.**

To further amend Law No. 3 of 1871 and to validate certain marriages.

(Assented to 2nd July, 1909.)

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

1. Articles *one, two, three, six, and ten* of Law No. 3 of 1871 (hereinafter referred to as the principal law) shall be and are hereby repealed, and the provisions in this Act contained shall be deemed to be respectively substituted for those repealed articles and shall be read as if they had been in the principal law enacted.

Repeal of
laws.

2. (1) Unless a special licence has been granted as provided in section *four* of this Act, no marriage shall be solemnized in this Colony until banns have been published either—

Publication of
banns.

(a) in public in the ordinary manner on three successive Sundays during divine service in a church or other building habitually used for public worship; or

(b) by posting them up for a period covering three successive Sundays in a conspicuous place to which the public have access at the magistrate's offices,

in the district in which either of the parties to the intended marriage or both of them reside.

* The Act was first published in the *Gazette* on the 2nd July, 1909.

**Act No. 13
of 1909.**

Solemnization
of marriages
by
magistrates
and specially
appointed
ministers of
religion.

(2) Upon production of proof that the banns have so been published the parties to the intended marriage may appear before any resident magistrate or assistant resident magistrate or before any minister of religion appointed a marriage officer, as provided in the next succeeding section, for the purpose of the solemnization of the marriage.

3. (1) Every resident magistrate and every assistant resident magistrate *ex officio* shall, and any minister of religion who may be appointed under this section a marriage officer (hereinafter referred to as a marriage officer) may, solemnize marriages in this Colony if satisfied that the requirements described in article *four* of the principal law have been complied with and that the impediments mentioned in that article or in article *eight* as hereby amended do not exist.

(2) The Colonial Secretary may from time to time appoint any minister of religion to be a marriage officer, and his appointment shall be notified in the *Gazette* and shall have effect as from the date on which in that notice it is expressed to take effect.

(3) Every minister of religion appointed a marriage officer under article *two* of the principal law shall be deemed to have been appointed under this section, and his appointment shall be deemed to have had effect as from the date of the notice in the *Gazette* of his appointment, or from the date on which that appointment was by the notice expressed to have effect, whichever is the earlier date.

Special
licences to
marry to be
issued by
magistrates.

4. (1) Marriages without such publication of banns as aforesaid shall only be solemnized in this Colony if the provisions of this section have been complied with, provided that nothing herein contained shall affect the authority conferred by any special licence issued by the Colonial Secretary before the coming into operation of this Act.

(2) Persons desiring to be married without publication of banns shall appear before a resident magistrate or an assistant resident magistrate, and if the requirements described in article *four*, and, when necessary, in article *five* of the principal law have been complied with and it appears that the impediments aforesaid do not exist and the magistrate is thereby satisfied that the intended marriage may be lawfully solemnized, he shall issue to the parties a certificate in Form "A" set forth in the Schedule to this Act.

(3) Upon production of that certificate and upon payment of a fee of five pounds, the resident magistrate or assistant resident magistrate before

whom the parties have appeared shall issue to them a special licence in the Form "B" set forth in the Schedule to this Act authorizing any magistrate or marriage officer to solemnize a marriage between those parties before the expiry of three months from the date of the special licence. The special licence shall be delivered by the parties to the magistrate or marriage officer (as the case may be) who solemnizes the marriage and shall be by him transmitted with the duplicate original register for record in the office of the Registrar-General of Births, Marriages, and Deaths.

5. Article *eight* of the principal law shall be and is hereby amended by the deletion of all words to the end of the article after the words "it might have been learned" and the substitution for the words so deleted of the words "it shall not be lawful to solemnize a marriage of such a person, and any magistrate or marriage officer who in such events solemnizes such a marriage shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months."

Amendment of article *eight* of Law No. 3 of 1871.

6. (1) Any magistrate or marriage officer who performs a marriage ceremony between parties one of whom is at the time of the ceremony already lawfully married, and any person aiding or abetting or counselling or procuring the performance of such a ceremony, shall, if he knew that either party thereto was already lawfully married be guilty of an offence and liable on conviction to a fine not exceeding two hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding one year or to both such fine and such imprisonment.

Penalties for solemnization of bigamous marriages.

(2) Nothing in this section shall be deemed to affect the provisions of the common law relating to bigamous marriages.

7. Any person who shall make any false statement in connection with any act done for the purpose of procuring the publication of banns or a special licence to marry, knowing that statement to be false, shall be guilty of an offence and liable on conviction to the penalty prescribed by law for perjury.

Penalty for false statements in relation to banns or special licences.

8. Notwithstanding anything in section *three* of Ordinance No. 39 of 1904, the fee of five shillings payable thereunder shall, in the case of marriages solemnized under the principal law as amended by this Act, not be payable if the

Amendment of section *three* of Ordinance No. 39 of 1904.

**Act No. 13
of 1909.**

Injuring
losing or
wilfully
destroying or
falsifying
marriage
registers.

Power to
make
regulations
as to
transmission
of registers by
magistrates
and marriage
officers to
Registrar-
General.

Validation of
certain
marriages
solemnized by
the Consul-
General of
the
Netherlands
acting under
the authority
of a certain
Volksraad
Resolution.

Title and
date of
operation of
Act.

marriage is solemnized by a marriage officer, but only if it is solemnized by a magistrate.

9. In sections *thirty-six* and *thirty-seven* of Ordinance No. 19 of 1906 the term "register" shall include, in addition to the registers defined by that Ordinance, any marriage register kept in accordance with the principal law as amended by this Act or any regulations made under this Act and the provisions of section *thirty-four* of the said Ordinance in so far as they relate to the making of searches and the payment of fees for searches shall apply *mutatis mutandis* to any marriage register as aforesaid.

* 10. (1) The Governor-in-Council may from time to time make, alter, or rescind regulations providing—

(a) for the proper transmission by magistrates and marriage officers of duplicate original marriage registers, to the office of the Registrar-General of Births, Marriages, and Deaths ;

(b) penalties for the contravention or failure to comply with any such regulations not exceeding a fine of ten pounds or, in default of payment, imprisonment with or without hard labour for a period of one month or both such fine and imprisonment.

(2) All such regulations and any alteration or rescission thereof shall be of force and effect on publication in the *Gazette*.

(3) All such regulations or any alteration or rescission thereof shall, within seven days after the publication, be laid on the tables of Parliament, if Parliament be then in session, or, if it be not then in session, within seven days after the commencement of its next ensuing session.

11. Any marriage solemnized in this Colony between the first day of September 1900 and the coming into operation of this Act by the Consul-General of the Netherlands, acting under the authority of First Volksraad Resolution article 2286 dated the tenth day of September 1896, shall be as valid and binding a marriage between the parties thereto as if the provisions of the principal law had been complied with and the said Volksraad Resolution had been at the date of the marriage of force and effect.

12. This Act may be cited for all purposes as the Marriage Law Amendment Act 1909, shall be read as one with the principal law, and shall come into operation as to section *eleven* on the date of its first publication as an Act in the *Gazette*,† and as

* For regulations see Govt. Notice No. 906 of 1909 (*Gazette*, 6th Aug., 1909, p. 587).

† The Act was first published in the *Gazette* on the 17th July 1909 of Pretoria, 2016

MARRIAGE LAW AMENDMENT.
SUPERIOR COURTS CRIMINAL JURISDICTION
AMENDMENT.

34

Act No. 13
of 1909.

Form "B."

TRANSVAAL SPECIAL MARRIAGE LICENCE.

Valid for three months only from the date hereunder written.)

LICENCE to marry in this Colony in accordance with the laws thereof is hereby granted to..... bachelor
and widower
..... spinster
..... widow

who have appeared before me the Resident Magistrate of the
Assistant Resident Magistrate
District of....., and who have produced to me the
certificate required by law.

Given at the Magistrate's Office at....., Transvaal, this
.....day of....., in the Year of
Our Lord One thousand Nine hundred and.....

.....
Resident Magistrate.
Assistant Resident Magistrate.

ACT No. 14 OF 1909.] [Came into operation 1st July, 1909.]

Act No. 14
of 1909.

AN

ACT

To amend Ordinance No. 10 of 1903.

(Assented to 2nd July, 1909.)

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

Amendment
of section *one*
of Ordinance
No. 10 of 1903.

1. Section *one* of Ordinance No. 10 of 1903 shall be and is hereby amended by the deletion therefrom of the words " Witwatersrand District " and the substitution for those words of the words " magisterial districts of Johannesburg, Boksburg, Germiston, and Krugersdorp "

Title and date
of operation of
Act,

2. This Act may be cited for all purposes as the Superior Courts Criminal Jurisdiction Amendment Act 1909 and shall come into operation on the first day of July 1909.

ACT No. 15 OF 1909.]

[Came into operation, save where otherwise expressly provided, on the 9th July, 1909.]

AN

ACT**Act No. 15
of 1909.****To Amend the Laws relating to Revenue.***(Assented to 2nd July, 1909.)*

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

PART I.**TRADING LICENSES.**

1. (1) From and after the first day of January, 1910 the several rates for the revenue licenses mentioned in the Second Schedule to this Act shall be the rates payable in respect of the trades or businesses specified in that Schedule, notwithstanding anything to the contrary contained in Ordinance No. 23 of 1905 or any other law mentioned in that Schedule, and the rates in force on the thirty-first day of December, 1909, shall from and after that day cease to be in force. The rates mentioned in the said Schedule shall (so far as is applicable) be thereupon substituted for the rates mentioned in the Second Schedule to that Ordinance or in that other law, these rates shall be read and construed as part of that Ordinance or other law as the case may be.

License duties payable in respect of certain trades and businesses.

(2) The provisions mentioned in the First Schedule to this Act shall, from and after the first day of January, 1910, be repealed.

PART II.**STAMP DUTIES AND FEES.**

2. (1) From and after the first day of October, 1909, the several instruments specified in the Third Schedule to this Act shall be subject to the stamp duties therein stated and the existing stamp duties to which the said instruments are on that day liable shall, from and after that day, cease to be chargeable : Provided that, in the case of leases, the provisions contained in paragraphs (b) to (g) of Item No. (2) of the Schedule to Ordinance No. 16 of 1905 shall continue in force, except that in paragraph (g) the words " Lease for the purposes of stamp duty shall include a sub-lease " shall be deleted.

Stamp duties payable in respect of certain documents.

(2) A sub-lease shall be chargeable with the same stamp duties as a cession of a lease.

**Act No. 15
of 1909.**

Fees—where
and how
payable.

3. From and after the first day of October, 1909 the stamp fees specified in the Fourth Schedule to this Act shall be payable at the several public offices therein mentioned in lieu of the fees now payable in the said offices. The said fees shall be paid by means of revenue stamps to be affixed to the documents in respect of which the fees are payable and those stamps shall be cancelled as recognized by law.

Defacement
of stamps.

4. (1) Whenever any adhesive stamp denoting duty on an instrument is not defaced, in full compliance with the requirements of section *thirteen* of Proclamation (Transvaal) No. 12 of 1902, but is effectively defaced in any manner which renders the stamp incapable of being again used for any revenue or postal purpose and appears to have been affixed to the instrument at the proper time for stamping, that stamp shall be deemed to be duly defaced.

(2) Whenever it is shown to the satisfaction of any revenue official that an undefaced or insufficiently defaced stamp affixed to any instrument for purposes of duty was affixed at the proper time for stamping, that official may deface such stamp (by impressing thereon his dated office stamp or by writing thereon his name with the date) and thereupon the stamp so defaced shall in respect of its value be reckoned *pro tanto* as evidence of payment of the duty to which the instrument is liable.

Stamping of
notarial in-
struments
which are
liable to
stamp duty.

5. (1) Whenever, in the case of any notarial instrument liable to stamp duty, the stamp is required by the provisions of section *one* of Ordinance No. 40 of 1904 to be affixed to the original, the instrument shall be stamped at the time of execution, but whenever the stamp is required to be affixed to the grosse, the instrument shall be stamped within twenty-one days of the date of execution, and in either case the stamp shall be defaced by the notary by or before whom the instrument was executed.

(2) If any such instrument is found unstamped after the period mentioned the notary shall be liable to stamp that instrument, provided that this provision shall not affect the liability attaching by law to the maker of the instrument, or any other person for payment of any duty and penalty.

Amendment
of provisions
of
Proclamation
(Transvaal)
No. 12 of
1902.

6. (1) Section *forty-two* of Proclamation (Transvaal) No. 12 of 1902 shall be and is hereby amended by addition thereto of the following words: "On recovery of the duty and penalty due in respect of an instrument the instrument shall

be stamped accordingly by a competent revenue officer and thereupon shall be deemed a duly stamped instrument”.

(2) Sub-section (3) of section *twenty-eight* of Proclamation (Transvaal) No. 12 of 1902 shall be and is hereby amended by the omission therefrom of all words after the words “fifty pounds”.

(3) Proclamation (Transvaal) No. 12 of 1902 shall be and is hereby amended by the omission therefrom of section *twenty-one*.

7. This part of this Act (including the Third and Fourth Schedules hereto) shall be read as one with the existing laws relating to stamp duties or fees payable by means of stamps and the word “instrument” whenever used in this part of this Act shall bear the same meaning as is assigned to that term in and for the purposes of Proclamation (Transvaal) No. 12 of 1902.

Act to be read in conformity with existing laws.

8. This Act may be cited for all purposes as the Finance Act 1909, and, save where it is otherwise expressly provided therein, shall come into operation on such date as the Governor may by proclamation in the *Gazette* declare.*

Title and date of operation of Act.

First Schedule.

Laws repealed.	Extent of Repeal.
Ordinance No. 23 of 1905.	Sub-sections (2) and (3) of section <i>seven</i> ; sections <i>eight</i> and <i>ten</i> , and sub-sections (4) and (5) of section <i>twelve</i> .

Second Schedule.

Part I.—General.

LICENSE DUTIES PAYABLE IN RESPECT OF THE UNDERMENTIONED TRADES OR BUSINESSES CARRIED ON OR EXERCISED IN THIS COLONY.

	Yearly.	Half-yearly.
1. By every agent or representative of any foreign manufacturing or trading concern	£10 0 0	£6 0 0
2. By every person carrying on business as an auctioneer	5 0 0	3 0 0
3. By every person carrying on business as an agent or a broker	1 0 0	—
4. By every general dealer: for every business or branch business	£1 0 0	—
5. By every board of executors or company of like kind: for every branch	50 0 0	£27 10 0
6. By every owner or possessor of a boiler: for each boiler	0 10 0	—

* This date was the 9th July, 1909. See Proc. No. 49 (Adm.), 1909 (*Gazette*, 9th July, 1909, p. 64).

Act No. 15
of 1909.

	Yearly.	Half-Yearly.
7. By every company carrying on the business of banking in this Colony :		
(a) If the paid-up capital does not exceed £500,000	250 0 0	—
(b) And in addition for every £1,000 or part thereof in excess of £500,000	0 10 0	—
8. Diamond Dealer's License (Ordinance No. 63 of 1903)	20 0 0	11 0 0
9. Diamond Broker's License (Ordinance No. 63 of 1903)	10 0 0	6 0 0
10. Diamond Cutter's License (Ordinance No. 63 of 1903)	5 0 0	3 0 0
11. License to Deal in Arms and Ammunition (Act No. 10 of 1907)... ..	10 0 0	6 0 0

Part II.

LICENSE DUTIES PAYABLE IN RESPECT OF THE UNDERMENTIONED TRADES OR BUSINESSES CARRIED ON OR EXERCISED OUTSIDE THE LIMITS OF ANY MUNICIPALITY :

	Yearly.	Half-yearly.
12. Keeper of any public billiard table : for every table	£10 0 0	£6 0 0
13. Keeper of any public bagatelle table : for every table	2 0 0	—
14. Kaffir eating-house	2 0 0	—
15. Pawnbroker	40 0 0	22 0 0
16. Pedlar, for the proprietor himself and also for every employee or other person who trades with him : each person	1 0 0	—
17. Hawker	2 0 0	—

Third Schedule.

STAMP DUTIES PAYABLE UNDER THIS ACT.

1. Affidavit or sworn declaration	£0 1 0
2. Authentication of signature of any document intended for use outside this Colony	0 2 6
3. Cheque, bill of exchange payable on demand or at sight on presentation	0 0 1
3. Bill of exchange or promissory note of any kind whatsoever (except a bank note) drawn or expressed to be payable or paid or endorsed or in any manner negotiated in this Colony :—	
Where the amount or value does not exceed £10	0 0 1
Exceeds £10, but does not exceed £50	0 0 6
" £50, " " £100	0 1 0
" £100; for the first £100, a duty of one shilling; for every additional £100 or part thereof	0 0 6
4. Bond.—Any special, general, notarial or mortgage bond, deed of security, or deed of <i>kinderbewys</i> :—	
For every £100 or part thereof of the amount of the bond	0 2 6
5. Leases or lettings or agreements for lease or letting of any land, building, or stand (including any rights or assets let therewith) :—	
1. Monthly lettings or letting terminable on a month's notice, or lettings for less than a year :—	
If the rent does not exceed the rate of £10 monthly	0 1 0
Exceeds £10, but does not exceed £20	0 2 6
" £20, " " £30	0 5 0
" £30, " " £40	0 7 6
" £40	0 10 0

11. Any lease or agreement of lease for a year or longer which is not liable for transfer duty:—
Duty shall be chargeable according to the following scale on a sum equal to the aggregate amount of rent payable throughout the period of the lease, together with any other consideration (by way of fore-gift, premium, fine, renewal-money, or the like) paid or payable in respect or by virtue of such lease:—

(a) Where the lease is for any period not exceeding ten years: for every £100 or part thereof	...	...	0	2	6
(b) Where the lease is for any period exceeding ten years: for every £100 or part thereof	...	...	0	5	0
(c) A lease for an indefinite period not terminable by a month's notice shall be stamped as a lease for five years, subject to repayment of the excess duty if the lease has been sooner terminated.					
6. Cession or transfer of any lease or agreement for lease which is not subject to transfer duty	...	...	0	2	6
A sub-lease shall be chargeable as a cession.					
7. Notarial protest or attestation of a bill or note	...	...	0	1	0
8. Notarial certificate of presentation of a bill or note	...	...	0	1	0
9. Policy of life insurance: for every £100 or part thereof of the amount assured	...	...	£0	1	0
10. Power of attorney:—					
(a) Proxy to vote at any meeting, poll, ballot, or the like, whether one or more persons be named in the proxy	...	...	0	0	1
(b) To act generally for the grantor	...	...	0	5	0
(c) Any other power not specified	...	...	0	1	0
A power granted by two or more persons constituting the members of a partnership or holding jointly the office of administrator, executor, curator, or trustee, and signing as such shall be deemed a single grant or power.					
11. Registration of share capital of a limited or unlimited company or any increase thereof for every £100 or part thereof	...	...	0	5	0
12. Special license to marry (Law No. 3 of 1871 as amended by the Marriage Law Amendment Act 1909)	...	...	5	0	0

Fourth Schedule.

TARIFF OF FEES CHARGEABLE BY THE MASTER OF THE SUPREME COURT IN LIEU OF THE FEES PRESCRIBED IN SCHEDULE "E" TO THE ADMINISTRATION OF ESTATES PROCLAMATION 1902 [PROC. (TRANS.) NO. 28 OF 1902].

Orphan Chamber Branch.

1. On estates the gross value of which does not exceed £400 ... £1 0 0
Thereafter at the rate of five shillings per cent. for every £100 or part thereof of the gross value subject to a maximum of £10.
(To be paid by means of revenue stamps affixed to the Letters of Administration.)
2. In all estates no matter of what value the following special fees will be chargeable:—
 - (a) Taxing Executor's remuneration: for every £1 or fraction thereof of the taxed amount ... 0 1 0
 - (b) Master's reports: from ... 0 10 0
 - (c) Extracts or copies of documents certified or uncertified and whether made in the Master's office or not:

For the first 100 words	...	...	0	2	6
Each subsequent 100 words or fraction thereof	...	...	0	1	0
 - (d) Inspection of documents: each estate ... 0 1 0
(Stamps to be affixed opposite to entries in a book kept for the purpose.)
Subject to inspection by executor free of charge

Act No. 15
of 1909.

TARIFF OF FEES CHARGEABLE BY THE MASTER OF THE SUPREME COURT IN LIEU OF THE FEES PRESCRIBED IN THE SCHEDULE TO THE INSOLVENCY LAW AMENDMENT ORDINANCE 1905 (ORDINANCE NO. 5 OF 1905).

Insolvency.

- (a) On the net assets of any insolvent estate or any company in liquidation, whether distributed by trustees or liquidators, or abandoned for realisation by secured creditors in terms of section *sixty-two* of Law No. 13 of 1895 or the provision of any law substituted for that section, provided always that no creditor shall be allowed to retain his security as against a trustee or liquidator until he shall have paid to such trustee or liquidator the fees hereby imposed and payable in respect of such security. (Stamps to be affixed to liquidation account.) } $\frac{1}{4}$ % subject to a maximum of £10.
- (b) Inspection of documents: each estate or company (subject to inspection by the trustee or liquidator free of charge) ... £0 1 0
(Stamps to be affixed opposite to entries in a book kept for the purpose.)
- (c) Extracts or copies of documents, certified or uncertified, and whether made in the Master's office or not:—
For the first 100 words ... 0 2 6
For each subsequent 100 words or fraction thereof ... 0 1 0
- (d) Taxing Trustee's remuneration: for every £1 or fraction thereof of the taxed amount ... 0 1 0
- (e) Master's reports: from ... 0 10 0

LIST OF FEES PAYABLE AT THE PATENT OFFICE ON AND IN CONNECTION WITH LETTERS PATENT.

(In lieu of the fees prescribed in Schedule "H" to the Patents Proclamation, 1902) [Proc. (Trans.) No. 22 of 1902].

- | | | |
|---|-----|-----------|
| 1. On application for provisional protection | ... | £1 0 0 |
| 2. On filing complete specification | ... | 3 0 0 |
| | | or £4 0 0 |
| 3. On filing complete specification with first application | ... | £4 0 0 |
| 4. On appeal from Commissioner to Attorney-General: by appellant | ... | 1 0 0 |
| 5. On notice of opposition to grant of patent: by opponent | ... | 0 10 0 |
| 6. On hearing by Commissioner: by applicant and by opponent respectively | ... | 0 10 0 |
| 7. On appeal from Commissioner to the Supreme Court of The Transvaal: by appellant | ... | 1 0 0 |
| <i>On application to amend Specification.</i> | | |
| 8. Up to sealing: by applicant | ... | 1 10 0 |
| 9. After sealing: by patentee | ... | 3 0 0 |
| 10. On notice of opposition to amendment: by opponent | ... | £0 10 0 |
| 11. On hearing by Commissioner: by applicant and by opponent respectively | ... | 0 10 0 |
| 12. On application to amend specification during action or proceeding: by patentee | ... | 3 0 0 |
| <i>On Certificate of Renewals.</i> | | |
| 13. Before the expiration of the third year from the date of the patent and in respect of the fourth year | ... | 2 0 0 |
| 14. Before the expiration of the fourth year from the date of the patent and in respect of the fifth year | ... | 2 10 0 |
| 15. Before the expiration of the fifth year from the date of the patent and in respect of the sixth year | ... | 3 0 0 |

16. Before the expiration of the sixth year from the date of the patent and in respect of the seventh year	3 10 0
17. Before the expiration of the seventh year from the date of the patent and in respect of the eighth year	4 0 0
18. Before the expiration of the eighth year from the date of the patent and in respect of the ninth year	4 10 0
19. Before the expiration of the ninth year from the date of the patent and in respect of the tenth year	5 0 0
20. Before the expiration of the tenth year from the date of the patent and in respect of the eleventh year	5 10 0
21. Before the expiration of the eleventh year from the date of the patent and in respect of the twelfth year	6 0 0
22. Before the expiration of the twelfth year from the date of the patent and in respect of the thirteenth year	6 10 0
23. Before the expiration of the thirteenth year from the date of the patent and in respect of the fourteenth year	7 0 0

NOTE.—Any or all of the above payments for renewals may be made in one sum.

On enlargement of the time for payment of Renewal Fees.

24. Not exceeding one month	£1 0 0
25. Not exceeding two months	1 10 0
26. Not exceeding three months	2 0 0

Other matters.

27. For every entry of a transfer agreement license or extension of patent	£0 10 0
28. For duplicate of letters patent: each... ..	1 0 0
29. Search or inspection fee: for every quarter of an hour	0 1 0
30. For any certificate issued by the Commissioner	0 5 0
31. For copy of any specification or other document: per folio of 100 words	0 1 0
32. On request to Commissioner to correct a clerical error: up to sealing	0 5 0
On request to Commissioner to correct a clerical error: after sealing	1 0 0
33. For altering address in register	0 5 0
34. For enlargement of time for acceptance of complete specification:—	
Not exceeding one month	1 0 0
Not exceeding two months	1 10 0
Not exceeding three months	2 0 0

TARIFF OF FEES CHARGEABLE BY THE SHERIFF OF THE TRANSVAAL IN LIEU OF THE FEES PRESCRIBED IN SCHEDULE "B" OF THE SHERIFF'S PROCLAMATION [PROC. (TRANS.) NO. 17 OF 1902], 1902.

On extract of certificate from debt registry	£0 5 0
On copy of writ filed	0 5 0
On report of sale to the Court	0 10 0
On report of account to the Court	0 10 0
On plan of distribution of proceeds of sale:—	
Where the purchase price does not exceed £250	2 0 0
Where the purchase price does not exceed £500	3 0 0
Where the purchase price does not exceed £1,000... ..	4 0 0
For every additional £1,000 or portion thereof	1 0 0

SURVEYOR-GENERAL'S OFFICE.

Schedule of Fees payable in lieu of the fees chargeable under Law No. 9 of 1891 (in Schedule "C" to the Law; in Section 36 to Annexure No. 3 to the Law; and Schedule to Annexure No. 2).

Act No. 15
of 1909.

<i>A.—Examination of General Plans.</i>	
1. Examination of general plans of townships : per figure	... £0 1 0
<i>B.—Certified Copies of Diagrams, etc.</i>	
2. For each diagram of a lot less than 10 morgen	... £0 5 0
3. For each diagram of a lot from 10 morgen to 75 morgen	... 0 15 0
4. For each diagram of a lot exceeding 75 morgen	... 1 0 0
5. For each deduction shown on the diagram	... 0 1 0
6. For each complete tracing of a diagram of a lot less than 10 morgen	... 0 3 0
7. For each complete tracing of a diagram of a lot from 10 morgen to 75 morgen	... 0 7 6
8. For each complete tracing of a diagram of a lot exceeding 75 morgen	... 0 10 0
9. For each sub-division shown on a diagram	... 0 1 0
10. For each rough tracing of a lot less than 10 morgen	... 0 1 6
11. For each rough tracing of a lot from 10 to 75 morgen	... 0 3 6
12. For each rough tracing of a lot exceeding 75 morgen	... 0 5 0
<i>C.—Copies of General Plans.</i>	
13. For each copy of a general plan of a township :—	
For each lot from 1 to 100	... 0 0 3
For each lot from 100 to 200	... 0 0 2
For each lot over 200	... 0 0 1
14. General plans or compilation of farms and portions of farms :—	
Not exceeding two figures	... 0 7 6
For each additional figure	... 0 2 6
15. Search fee : for every hour or portion thereof	... 0 1 0
16. For each certificate on a diagram or other document	... 0 1 0

ACT NO. 16 OF 1909.] [Came into operation 9th July, 1909.

Act No. 16
of 1909.AN
ACTTo apply a Sum of Money for the Service of the Year
ending the Thirtieth day of June 1910.

(Assented to 5th July, 1909.)

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

Public Revenue to be charged with
£5,070,437.

1. The public revenue of this Colony is hereby charged towards the service of the year ending the thirtieth day of June 1910 with a sum of five million and seventy thousand four hundred and thirty-seven pounds sterling.

Not to be applied otherwise than as granted.

2. The money granted by this Act shall not be applied to any use, intent or purpose other than the particular services specified in the Schedule to this Act.

Appropriation for Extraordinary Expenditure not to lapse until particular service completed.

3. No appropriation granted by this Act for any particular service set forth in the Schedule to this Act under the head of Extraordinary Expenditure shall lapse until such service has been completed.

4. The Colonial Treasurer being duly authorized thereto by warrant under the hand of the Governor shall issue and pay from time to time such sums of money as shall be required for the purposes herein-before mentioned, not exceeding in the whole the sums respectively in that behalf specified, and shall in his accounts be allowed credit for all sums paid by him in pursuance of such warrant; and the receipts of the persons to whom such sums shall have been so paid shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

The Treasurer to make payments under warrant of the Governor.

**Act No. 16
of 1909.**

5. This Act may be cited for all purposes as the Title. Appropriation (1909-10) Act 1909.

Schedule.

ORDINARY EXPENDITURE.

Number of Vote.	Title of Vote.	Accounting Officer.	Amount of Vote.
1	His Excellency the Governor	Secretary to Prime Minister	£7,899
2	Legislative Council	Clerk to Legislative Council	8,800
3	Legislative Assembly	Clerk to Legislative Assembly	26,900
4	Joint Parliamentary Expenses	Clerk to Legislative Assembly	6,195
5	Prime Minister	Secretary to the Prime Minister	7,592
6	Agriculture & Forests	Director of Agriculture	211,969
7	Colonial Secretary	Assistant Colonial Secretary	76,814
8	Public Health	Assistant Colonial Secretary	172,265
9	Volunteers	Assistant Colonial Secretary	79,870
10	Education	Assistant Colonial Secretary	658,476
11	Attorney-General	Secretary to the Law Department	48,187
12	Superior Courts	Secretary to the Law Department	43,608
13	Magistrates	Secretary to the Law Department	146,767
14	Police	Commissioner of Police	586,843
15	Prisons	Director of Prisons	276,323
16	Foreign Labour	Superintendent of Foreign Labour	9,561
17	Mines	Secretary for Mines	168,356
18	Treasury	Secretary to the Treasury	21,040
19	Internal Revenue	Secretary to the Treasury	16,115
20	Auditor-General	Auditor-General	15,581
21	Customs	Director of Customs	74,786
22	Posts and Telegraphs	Postmaster-General	402,428
23	Printing & Stationery	Government Printer	94,067
24	Agent - General in London	Secretary to the Treasury	10,100
25	Pensions, Allowances and Gratuities	Secretary to the Treasury	9,639
26	Public Debt Services	Secretary to the Treasury	—
27	Miscellaneous	Secretary to the Treasury	20,000
28	Lands and Irrigation	Secretary for Lands	190,637
29	Surveys	Surveyor-General	40,415
30	Native Affairs	Secretary for Native Affairs	120,868
31	Public Works	Secretary for Public Works	463,136
32	Works and Bridges	Secretary for Public Works	250,000
Total Ordinary Expenditure			£4,265,237

APPROPRIATION (1909-10).
LAND AND AGRICULTURAL BANK FURTHER
AMENDMENT.

44

Act No. 16
of 1909.

EXTRAORDINARY EXPENDITURE.

Letter of Vote.	Title of Vote.	Accounting Officer.	Amount of Vote.
A	Extirpation of Cattle Disease	Director of Agriculture	£60,000
B	General Telephone Extension	Postmaster-General	50,006
C	Works and Bridges	Secretary for Public Works	645,200
D	Canalisation of Aapies River, etc., Pretoria	Secretary for Lands	50,000
Total Extraordinary Expenditure			£805,200

Summary.

Ordinary Expenditure	£4,265,237
Extraordinary Expenditure	805,200
Total	£5,070,437

ACT No. 17 OF 1909.]

[Came into operation, except as to section *two*, on 16th July, 1909.

Act No. 17
of 1909.

AN
ACT

To further amend the Land and Agricultural Bank Act (Act No. 26 of 1907) and to amend the Land and Agricultural Bank Amendment Act (Act No. 37 of 1908).

(Assented to 5th July, 1909.)

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

1. In this Act—

“amendment Act” shall mean Act No. 37 of 1908; Interpretation of terms.

“principal law” shall mean Act No. 26 of 1907;

Save as to the term “co-operative society,” which shall mean a society registered under the Co-operative Agricultural Societies Act 1908 or any amendment thereof, and also as to the term “manager,” any term to which by the principal law a meaning has been assigned for the purposes thereof, shall, when used in this Act, have the same meaning.

2. (1) Sections *four* and *five* of the principal law shall be and are hereby repealed.

Appointment of statutory chairman and manager of the bank.

Act No. 17
of 1909.

(2) The Governor may from time to time appoint a person who shall hold jointly the offices of chairman of the board and manager of the bank.

(3) The chairman and manager when appointed shall be one of the five members of the board mentioned in section *three* of the principal law, but his appointment shall not be subject to the other provisions of that section nor shall he retire in accordance with the provisions of section *ten* of the principal law. In the event of one of the existing members of the board being appointed chairman and manager, no retirement of a member of the board shall take place in the year in which the member so appointed would otherwise have retired.

(4) The chairman and manager so appointed shall have all the powers, jurisdiction and privileges, but shall be subject to all the obligations and duties, conferred or imposed on the chairman and on the manager by the principal law, the amendment Act, or this Act, or any further amendment of those laws.

(5) He shall further preside at all meetings of the board unless he has obtained leave of absence from the Minister of Agriculture, or is incapacitated by sickness or other cause; in that event the members of the board present at any meeting shall choose one of their number to act as chairman of that meeting or if they so think fit, until the person appointed chairman and manager is able to resume his duties. All the powers, jurisdiction, privileges, and duties exercisable by the chairman shall be exercisable by the person for the time being lawfully acting as chairman.

(6) The provisions of this section shall not come into operation until the Governor shall by proclamation in the *Gazette* have declared it in operation.

3. Section *five* of the amendment Act shall be and is hereby amended so that the funds of the bank shall be two million pounds sterling instead of two and one-half million pounds sterling as in that section is provided. In every other respect the provisions of that section shall remain unaltered.

Reduction of capital funds of the bank to two million pounds sterling.

4. Sections *thirteen* and *fourteen* of the amendment Act shall be and are hereby repealed.

Repeal of sections *thirteen* and *fourteen* of Act No. 37 of 1908.

**Act No. 17
of 1909.**

Loans to
co-operative
societies on
the security
of immovable
property.

5. (1) A co-operative society may, upon written application made in the form prescribed by the board, obtain a loan from the bank on such conditions as the board may determine for any one or more of the objects in respect of which that society has regulations registered under the Co-operative Agricultural Societies Act 1908 or any amendment thereof.

(2) The loan shall be made upon the security of first mortgage of immovable property and of such additional security as the board may require, and it shall bear interest at the rate of five pounds per cent. per annum payable periodically on such dates as the board may prescribe in advance; the loan shall be repayable, with all interest due thereon, within ten years from the date thereof, unless the board shall for good reason extend the period of repayment, or shall sooner call in the loan under section *eight* of this Act.

(3) The loan shall not exceed sixty per cent. of the value, as determined by the board, of that immovable property and of that additional security (if any).

(4) No loan exceeding ten thousand pounds sterling shall be made under this section without the approval of the Governor.

(5) The form of mortgage for securing any such loan shall be as prescribed by the board.

Loans to
co-operative
societies on
the security
of joint and
several
liability of
the members,
etc.

6. (1) Upon such written application as aforesaid a co-operative society may also obtain a loan from the bank, for any one or more of the objects aforesaid, upon the security of the joint and several liability of the members of the society and of such additional security as the board may require.

(2) A loan made under this section shall bear interest at the rate of five per cent. per annum payable periodically on such dates as the board may prescribe; it shall be repayable with any interest due thereon within five years unless the board for good reasons extends the period.

(3) No loan exceeding five thousand pounds sterling shall be made under this section without the approval of the Governor.

Loan to
societies in
form of cash
credit
account.

7. A loan to a co-operative society may be made by the board in the form of a cash credit account; and that society may draw the whole or any part of the loan and may at any time repay the whole or any portion thereof. Interest shall be payable by the society to the board on the daily balance of the amount outstanding.

8. (1) If at any time any portion of a loan made to a co-operative society under section *five* of this Act has, in the opinion of the board, not been used for the objects for which it was made, or not been carefully and economically expended, the board may, for that or for any other good cause, refuse to pay over any further instalments of that loan and may forthwith call up the whole amount already advanced.

Remedies of board in case of loan upon security of immovable property of society.

(2) Thereupon that whole amount, together with the interest on, and the expenses of the board incidental to, the loan, shall forthwith become repayable and in default of repayment the board shall have the same remedies for recovery of the money or enforcement of the bond as is provided by the principal law or the amendment Act for the recovery of other loans made by the bank.

9. (1) If the circumstances described in the last preceding section arise in respect of a loan made under section *six* of this Act, or on the expiry of the period for which the loan was granted the board shall frame a plan of contribution apportioning the liability in equal shares amongst all the members of the society.

Remedies of board in case of loans upon security of joint and several liability of members.

(2) The board shall cause that plan of contribution to be published by notice in the *Gazette* and in a newspaper circulating in the district in which the society carries on its operations. That notice shall state that, if within fourteen days from the date of the publication thereof in the *Gazette* the amount due to the bank in respect of the loan and interest thereon be not paid, the board will, without recourse to any court of law, seize and sell through the sheriff or messenger of the court as the case may be (as it is hereby authorized so to do), so much of the property and effects of each of the defaulting members as may be necessary to meet the indebtedness of each such member as shown in the plan of contribution.

(3) If any member liable to contribute under the plan of contribution has not property or effects sufficient to meet that indebtedness, the board may recover *pro rata* from each of the other members in manner aforesaid the share of that member's unsatisfied liabilities, and if any member liable to pay, *pro rata* a share of another member's liability under this section is unable to pay the same, the other members shall be liable to repay *pro rata* a further share to meet that liability, and so on until the whole indebtedness of the members of the society under this section be paid off.

Act No. 17
of 1909.

(4) The board in having recourse to the remedies provided by this section shall in every case take and sell movable property of a member before proceeding against his immovable property.

(5) Nothing in this section contained shall be deemed to take away or diminish the right of any one debtor who has paid more than his *pro rata* share in satisfying his liability thereunder to proceed at common law against his co-principal debtor upon the joint and several liability aforesaid.

(6) For the purposes of this section "liability" shall include, in addition to the loan and interest thereon, the expenses incurred by the board in making the loan, recovering the same, and any interest thereon.

Examination
of books of
society.

10. The board may at all reasonable times cause the books of the society to be examined by a member of the staff or by any other person appointed thereto.

This Act to
modify Act
No. 17 of
1908 as
regards the
bank.

11. This Act shall be deemed to modify, so far as concerns the bank, the provisions of section *thirty-one* of the Co-operative Agricultural Societies Act 1908.

Applications
for loans to
co-operative
societies to
be first trans-
mitted to
registrar of
co-operative
societies for
certain
certificate.

* 12. Every application made under this Act by a co-operative society for a loan shall be transmitted in the first instance to the registrar of co-operative societies, who shall send on the application to the board accompanied by a certificate (if such be the case) that the said loan has been approved by the society in manner provided as to loans by section *nineteen* of the Co-operative Agricultural Societies Act 1908 or any amendment of that section and that all other provisions of the law have been duly complied with. No loan shall be made to a co-operative society under this Act until the provisions of this section have been complied with.

Guarantee
by board of
contracts of
co-operative
societies.

13. (1) The board may guarantee the performance by a co-operative society of any contract entered into or to be entered into by that society, whether jointly with another society or otherwise, and in the event of the failure of any society to carry out the terms of the contract so far as it is liable to do so or to conduct the business which is the subject of the contract, to the satisfaction of the board, the board may complete the contract or abandon the same upon such terms as it is able to arrange, and may recover from the society which is so in default any loss sustained by the

Bank, in the same manner as a loan may be recovered under section *nine* of this Act.

(2) Before giving any such guarantee on behalf of a society the board shall obtain from that society an indemnity to the extent of its liability under the contract. Such indemnity shall be signed by the chairman and secretary of the society and when so signed shall bind all the members thereof jointly and severally.

(3) Any such guarantee given by the board prior to the coming into operation of this Act shall be deemed to have been given under this section.

14. This Act may be cited for all purposes as the Land and Agricultural Bank Further Amendment Act 1909, shall be read as one with the principal law and the amendment Act, and shall, save as to section *two*, come into operation on the date of its first publication as an Act in the *Gazette*.*

Title and date of operation of Act.

Act No. 17
of 1909.

ACT NO. 18 OF 1909.] [See section *five* for date of operation.

AN

A C T

Act No. 18
of 1909.

To provide for the issue of Passes to Natives within Urban Areas and for other purposes incidental thereto.

(Assented to 5th July, 1909.)

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

1. The laws mentioned in the First Schedule to this Act shall be and are hereby repealed to the extent set forth in the second column of that Schedule, together with any provision of any other law which may be repugnant to or inconsistent with the provisions of this Act.

Repeal of laws.

2. In this Act and in any regulations made thereunder—

Interpretation of terms.

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

* The Act was first published in the *Gazette* on the 16th July, 1909.

**Act No. 18
of 1909.**

“native” shall mean a male person of the age of fourteen years or over that age, if both of his parents are members of an aboriginal race or tribe of Africa;

“urban area” shall mean one of the areas mentioned in the Second Schedule to this Act—unless excluded by proclamation issued thereunder—or any other area declared by the Governor by proclamation in the *Gazette* to be an urban area for the purposes of this Act.

Constitution of new urban areas and exclusion.

3. The Governor may from time to time by proclamation in the *Gazette* declare any area which is not already an urban area for the purposes of this Act, to be such an area, or by like proclamation, declare an urban area or any portion thereof to be no longer an urban area for those purposes.

Power to make regulations as to passes etc. in urban areas.

4. (1) The Governor may from time to time make, alter, or rescind regulations for all or any of the following purposes, that is to say:—

(a) providing for the issue of passes to and the compulsory carrying of passes by natives in urban areas, and imposing a charge on the issue of the pass not exceeding one shilling per month payable in advance by the native;

(b) the supervision and control of natives and their sojourn in urban areas;

(c) the conditions under which contracts of service entered into by natives in urban areas shall be regulated and enforced;

(d) the compulsory medical examination and vaccination of all natives employed or residing in urban areas;

(e) prescribing penalties for a breach of any such regulations not exceeding a fine of ten pounds or, in default of payment thereof, imprisonment with or without hard labour for a period of one month or such imprisonment without the option of a fine.

(2) The regulations in force at the date of the coming into operation of this Act and made under the provisions hereby repealed shall be deemed to be regulations made under this Act, but the terms “municipal pass officer” and “municipal pass office” when used in any such regulation shall, after that date, mean the officer or office appointed by the Governor as a pass officer or pass office; and the term “municipality” when used in any such regulation shall, after that date, mean “urban area.”

(3) All regulations mentioned in sub-section (1) and any alteration or rescission of any regulation

mentioned in this section shall be of force and effect in the urban area in respect of which it is made, on publication in the *Gazette*.

(4) All such regulations and any alteration or rescission thereof shall, within seven days after such publication, be laid on the tables of Parliament if Parliament be then in session, or if it be not then in session within seven days after the commencement of its next ensuing session.

5. This Act may be cited for all purposes as the Urban Areas Native Pass Act 1909, and shall not come into operation unless and until the Governor has declared by proclamation in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall come into operation on such date as the Governor may, by like proclamation, declare.

Title and date of operation of Act.

First Schedule.

Law Repealed.	Extent of Repeal.
Ordinance No. 31 of 1902	Sections <i>two</i> and <i>three</i> .
Ordinance No. 58 of 1903	Sub-section (5) of section <i>fifty-nine</i> .
Ordinance No. 41 of 1904	Sub-section (2) of section <i>twenty-one</i> .

Second Schedule.

The areas for the time being included within the following municipalities :—

- Amersfoort.
- Amsterdam.
- Barberton.
- Belfast.
- Bethal.
- Carolina.
- Christiana.
- Ermelo.
- Lichtenburg.
- Lydenburg.
- Machadodorp.
- Middelburg.
- Nylstroom.
- Pietersburg.
- Potchefstroom.
- Piet Retief.
- Potgietersrust.
- Rustenburg.
- Standerton.
- Schweizer Reneke
- Ventersdorp.
- Volksrust.
- Wakkerstroom.
- Wolmaransstad.
- Zeerust.

and the following areas in Pretoria district, viz :—

- the municipality of Pretoria ;
- the farm "Groenkloof" ;
- the area over which the Pretoria Suburbs Health Committee has for the time being jurisdiction ;
- the townships of Pretoria North and Wolmer.

ACT NO. 19 OF 1909.] [Came into operation 1st Aug., 1909.

Act No. 19
of 1909.

AN
A C T

To amend the Public Service and Pensions Act, 1908
(Act No. 19 of 1908).

(Assented to 5th July, 1909.)

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

Amendment
of section
eight of Act
No. 19 of
1908.

1. Paragraph (*a*) of sub-section (2) of section *eight* of the Public Service and Pensions Act 1908 (hereinafter referred to as the principal law) shall be and is hereby amended by the insertion at the end of sub-section (2) of the said section of the words :—

“ provided that if any female officer, who is
“ not a contributor to the Pension Fund, is
“ removed from her office for either of the
“ reasons stated in paragraphs (*c*) and (*d*)
“ hereof, the provisions of the said Chapter
“ III shall not apply in her case.”

Amendment
of section
thirteen of
Act No. 19 of
1908.

2. Section *thirteen* of the principal law shall be and is hereby amended by the addition thereto of the following new paragraph :—

(*g*) “ commits any crime.”

Imposition of
fines for con-
travention of
regulations.

3. Notwithstanding anything to the contrary contained in section *fourteen* of the principal law, it shall be lawful in any regulations made under the provisions of section *fifty-four*, sub-section (1) paragraph (*a*) of the said law, to provide for the imposition of fines in particular departments or branches of the Public Service for contraventions of regulations applicable to such departments or branches. Such fines shall be fixed in accordance with a scale to be approved by the Minister, and may be imposed by the head of the department without the issue of an order for suspension from duty of the officer concerned.

Amendment
of section
fourteen of
Act No. 19 of
1908.

4. Paragraph (*a*) of sub-section (1) of section *fourteen* of the principal law shall be and is hereby amended by the insertion immediately after the word “ reprimanded ” of the words “ or deprived of leave privileges or any increase of pay may be suspended ”.

5. Section *seventeen* of the principal law shall be and is hereby amended by the deletion of sub-section (4) thereof and the substitution of the following new sub-section :—

Amendment of section *seventeen* of Act No 19 of 1908.

“(4) The income derived by the Treasurer from the investment of such balances as are described in sub-section (3) of this section shall be paid to the credit of the Pension Fund; provided that, whenever an investment of such balances produces interest at a less rate than four per cent., the difference between the rate of interest produced and four per cent. shall be made good out of general revenue.”

6. Section *twenty* of the principal law shall be and is hereby repealed and the following new section shall be substituted therefor :—

Repeal of section *twenty* of Act No. 19 of 1908 and substitution of new provision.

“20. From and after the date fixed as aforesaid there shall be paid out of general revenue into the Pension Fund :—

“(a) a sum monthly equal to the aggregate of the current contributions made by officers under this Chapter ;

“(b) a sum equal to the total amount of the contributions mentioned in sub-section (2) of section *eighteen* ;

“(c) compound interest at the rate of eight per cent. per annum, calculated on the contributions mentioned in sub-section (2) of section *eighteen* to the date of the coming into operation of this Act ;

“(d) interest at the rate of four per cent. per annum on the daily average uninvested balance of the Pension Fund ;

“(e) interest at the rate of four per cent. per annum calculated on the average monthly balance of the contributions mentioned in sub-section (2) of section *eighteen* outstanding on and after the day on which the Act came into operation.”

7. (1) Notwithstanding anything to the contrary in the principal law contained, any female officer who, before the passing of this Act, has, in terms of section *eighteen* of the said law, become a contributor to the Pension Fund, shall have the right of deciding within three months from the first day of January 1910 whether she will continue to contribute or not and in any case where a female contributor decides not to make any further contributions to the Pension Fund the amount of any contributions already made by her to the Fund shall be repaid to her without any allowance for interest, and the contributions

Contributions to Pension Fund by female officers.

Act No. 19
of 1909.

made from Revenue to the Fund on her behalf shall be repaid to Revenue together with any interest that has accrued on any amounts standing to the credit of the contributor in the Fund.

(2) The provisions of sub-section (1) of section *eighteen* of the principal law shall not be deemed to apply to any female officer engaged after the taking effect of this Act, unless such female officer shall, within three months of the date of the confirmation of her appointment, elect to become a contributor to the Pension Fund.

(3) With the consent of the Treasurer contributions may be made to the Fund by any such officer as is in sub-section (2) of this section mentioned, in respect of any probationary or continuous temporary service performed immediately preceding the date of such confirmation.

(4) Any female officer who does not elect to remain or become a contributor to the Pension Fund shall not be entitled to any gratuity, pension, or other payment on retirement from the Public Service.

Amendment
of section
twenty-seven
of Act No. 19
of 1908.

8. Section *twenty-seven* of the principal law shall be and is hereby amended by the addition thereto of the following new sub-section :—

“(5) Any officer retired under this section upon a gratuity, who may not have completed the payment of contributions to the Pension Fund due in respect of any period of employment between the first day of September 1900 and the date of the coming into operation of this Act shall not be held liable for the completion of such payment.”

Amendment
of section
forty-one of
Act No. 19 of
1908.

9. Section *forty-one* of the principal law shall be and is hereby amended by the addition thereto of the following new sub-section :—

“(4) The Treasurer shall contribute to the Fund from general revenue an amount equal to the aggregate of the amount payable by contributing officers in respect of approved periods of continuous employment between the first day of September 1900 and the date of the coming into operation of this Act.”

Amendment
of section
forty-seven of
Act No. 19 of
1908.

10. Section *forty-seven* of the principal law shall be and is hereby amended by the addition thereto of the following new sub-section :—

“(3) Any officer of the General Service who has been employed temporarily or on probation during any period subsequent to (or prior to and subsequent to)

“the date of coming into operation of this Act, and who is admitted to the permanent staff of the General Service, may elect to contribute to the General Service Provident Fund in respect of such temporary or probationary period of employment; provided that within one month from the date on which he is placed upon the permanent staff of the General Service, he signifies his intention to contribute as herein provided. The Treasurer shall thereupon decide whether or not such period may be allowed to count for contribution purposes, and the arrears that shall become liable shall be paid in such manner as is laid down in sub-section (2) of this section.”

11. Notwithstanding anything to the contrary in section *fifty-two* of the principal law contained, the Governor may sanction the immediate payment of all gratuities that may be awarded to those officials at present employed in the Public Service, who are referred to in that section.

Payment of gratuities awarded to officials of South African Republic who are in the Public Service.

12. Section *fifty-three* of the principal law shall be and is hereby amended by the insertion immediately after the words “official of the South African Republic” of the words “or, failing a widow or minor child, any relative actually dependent for maintenance on such an official,” and by the deletion of the words “described in section *fifty-one* who died before the commencement of this Act” and the substitution thereof of the words “who, being such an official as is described in sub-section (1) paragraphs (a) and (c) of section *fifty-one*, died within any period between the eleventh day of October, 1899, and the date on which the said period of two years expired,”.

Amendment of section *fifty-three* of Act No. 19 of 1908.

13. Section *fifty-nine* of the principal law shall be and is hereby amended by the addition thereto of the following new sub-sections:—

Amendment of section *fifty-nine* of Act No. 19 of 1908.

“(4) Any officer who, between the first day of September 1900 and the date of the coming into operation of this Act, was employed for any period in any of the following departments or offices, and whose employment conforms to section *twenty-five* of this Act, shall be entitled to count such period for pension purposes:—
“(a) Transvaal Provisional Constabulary,

Act No. 19
of 1909.

“(b) Imperial Military Railways, South
“ African Constabulary, or other de-
“ partment subsequently absorbed into
“ the Inter-Colonial Council.

“(5) In the event of any officer of the staff
“ of the Transvaal Land Settlement Board,
“ established under the provisions of section
“ *fifty-two* of the Transvaal Constitu-
“ tion Letters Patent 1906 receiving
“ any appointment in the Admin-
“ istrative and Clerical Service, either
“ before or at the time of the expiry
“ of the Board’s period of office, it shall be
“ lawful to permit such officer to contribute
“ to the Pension Fund in respect of any con-
“ tinuous period of employment with the
“ Board and any previous employment
“ falling within the provisions of this Act ;
“ provided that an amount equiva-
“ lent to the arrear contributions of such
“ officer, together with compound interest
“ at the rate of eight per cent. per annum
“ calculated on the said contributions up to
“ the date of the officer’s appointment to
“ the Administrative and Clerical Service
“ is paid to the Pension Fund by the Land
“ Settlement Board on behalf of such
“ officer. The provisions of sub-section (2) of
“ section *eighteen* and sub-sections (1) and
“ (2) of section *nineteen* shall apply *mutatis*
“ *mutandis* in every such case.

“(6) If any person to whom the Pen-
“ sions Ordinance 1906 or the pension
“ provisions of this Act have been
“ declared applicable by proclamation
“ under paragraph (c) of section *sixty-eight*
“ of this Act (as hereby amended)
“ has, when they are so declared, acquired
“ rights under that Ordinance or those pro-
“ visions, his rights shall be continued,
“ subject to the obligations attaching to
“ those rights, during the time that he holds
“ office under the bank in that paragraph
“ described, and he shall be entitled to
“ count for purposes of pension as one con-
“ tinuous period of employment, both the
“ period which he was at the date of his
“ appointment to office under the said
“ bank, entitled so to count and the period
“ during which he held such an office.”

14. Section *sixty-two* of the principal law shall be and is hereby amended by the deletion of the word "twenty-five" and the substitution therefor of the word "fifty", and by the deletion of the words "and before the first payment thereof has been made".

Amendment of section *sixty-two* of Act No. 19 of 1908.

Act No. 19 of 1909.

15. Section *sixty-eight* of the principal law shall be and is hereby amended by the deletion of paragraph (c) thereof and the substitution of the following new paragraph :—

Amendment of section *sixty-eight* of Act No. 19 of 1908.

"(c) declare that the provisions of the "Pensions Ordinance 1906 or the pension provisions of this Act (whichever may be applicable) shall apply to the manager or any member of the staff of the bank established under Act No. 26 of 1907".

16. This Act may be cited for all purposes as the Public Service and Pensions Act Amendment Act 1909, shall be read as one with the principal law, and shall come into operation on such date as the Governor may by proclamation in the *Gazette* declare.*

Title and date of operation of Act.

ACT NO. 20 OF 1909.]

[See section *thirty-six* for date of operation.]

AN
ACT

Act No. 20 of 1909.

To establish a Department of Labour in this Colony, to aid in the prevention of Strikes amongst Employees or Lockouts by Employers and to make Provision for the Settlement of Industrial Disputes by Conciliation after Investigation.

(Assented to 7th July, 1909.)

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

PRELIMINARY.

1. This Act, in so far as it contains provisions to aid in the prevention of strikes and lockouts and for the settlement of industrial disputes by conciliation after investigation, shall apply to the following undertakings, trades, or industries, namely—

Application of Act.

- (a) the mining industry ;
- (b) any undertaking carried on by a local authority for the supply of gas, electric light,

* See Proc. No. 52 (Admn.), 1909 (*Gazette*, 30th July, 1909, p. 447), putting the Act into operation on the 1st Aug., 1909.

Act No. 20
of 1909.

water, or power, or for tramway, or sanitary services ;

(c) any other undertaking, trade, or industry to which the Governor may, by proclamation in the *Gazette*, apply those provisions.

In so far as it relates to other matters, this Act shall apply to all undertakings, trades, and industries.

Interpreta-
tion of terms.

2. In this Act, unless inconsistent with the context,

“ application ” shall mean an application for the appointment, under this Act, of a board to investigate and report upon a dispute ;

“ board ” shall mean a board of conciliation and investigation, appointed under Chapter III. of this Act ;

“ department ” shall mean the Department of Labour established under Chapter I. of this Act ;

“ dispute ” or “ industrial dispute ” shall mean any dispute or difference between an employer and any of his employees in relation to—

(a) matters affecting work done or to be done by such employees ; or

(b) rights, privileges, or duties of employers or employees, not involving such a violation thereof as would constitute a criminal offence ; or

(c) the wages, allowances, or other remuneration of employees, or the price paid or to be paid to them in respect of their employment ; or

(d) the hours of employment, the qualification or status of employees, and the terms, conditions, and manner of their employment ; or

(e) the employment of any persons or class of persons, or the dismissal of, or refusal to employ, any particular persons or class of persons ; or

(f) claims on the part of an employer or any employee that preference should be given, or not be given, to one class of persons over another class of persons (whether as members of a trade union or not, as British subjects or aliens, or as white or coloured persons), and the

circumstances under which such preference, if allowed, should, or should not, be given ; or

- (g) materials supplied and alleged to be bad, unfit, or unsuitable, or damage alleged to have been caused to work ; or
- (h) any custom or usage recognised, whether generally or in a particular district, or on particular industrial premises ; or
- (i) the interpretation of any agreement between an employer and employee, or of a portion thereof ;

“employee” shall mean any white person engaged by an employer to perform, for hire or reward, manual, clerical, or supervision work in any undertaking, trade, or industry to which this Act applies ;

“employer” shall mean any person or body of persons, whether corporate or unincorporate, employing ten or more white persons upon any undertaking or at any trade or industry to which this Act applies, but shall not include any department of the Crown ;

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

“imprisonment” shall mean imprisonment, with or without hard labour, as the court which passes sentence may direct ;

“inspector” shall mean the Inspector of White Labour appointed under Chapter I. of this Act, or any person lawfully acting in such capacity ;

“lockout” shall mean the closing by an employer of his employment premises, or a suspension by him of work, or the refusal by an employer to continue to employ any number of his employees when such closing, suspension, or refusal is for the purpose of compelling his own employees, or of aiding another employer, to accept specific terms of employment ;

“Minister” shall mean the Minister of Mines or any other Minister to whom the Governor may, from time to time, assign the administration of this Act ;

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of 1909.

“regulation” shall mean a regulation made and in force under section *thirty-four* of this Act ;
 “strike” shall mean the cessation of work by a body of employees acting in combination, or a concerted refusal, under a common understanding, of any number of employees, to continue to work for an employer in consequence of a dispute, when such cessation or refusal is for the purpose of compelling their employer, or of aiding other employees in compelling their employer, to accept specific terms of employment ;
 “trade union” shall mean any lawful organization of employees formed for the purpose of regulating the relations between employers and employees.

CHAPTER I.

DEPARTMENT OF LABOUR.

Department
of Labour.

3. (1) There shall be a Department of Labour in this Colony, under the supervision and control of the Minister.

(2) The Governor shall, from time to time, appoint an officer to be called “the Inspector of White Labour,” who shall, subject to the orders and directions of the Minister, carry out the powers and duties conferred and imposed on him by this Act, or the regulations, or any other law, and shall exercise such other functions as the Governor may, from time to time, lawfully assign to him.

Duties of
inspector of
white labour.

4. The inspector shall perform the following duties, that is to say, he shall—

- (a) receive and register, and, subject to the provisions of this Act, deal with every application by employees or employers for the appointment of a board to determine a dispute, and, upon receipt of the application, shall forthwith inform the Minister thereof ;
- (b) correspond with parties to a dispute, and generally perform all acts necessary to ensure the speedy sitting of a board as soon as the same has been appointed by the Minister ;
- (c) receive and file all reports and recommendations made by a board, and, subject to the provisions of this Act, do all such things as will render such reports and recommendations effective ;

- (d) keep a register containing the particulars of every application, and of every reference to, or report or recommendation of, a board, and of its proceedings, and of documents relating thereto, and, when required by the Minister, transmit all or any of the same to him ;
- (e) supply, when required, information to any party to a dispute, as to this Act or the regulations or proceedings thereunder, and furnish any such party, or member of the board, with the prescribed forms ;
- (f) keep a register of all unemployed white persons and enter therein such particulars in relation to them, the class of employment required by them, and the trades or occupations previously followed by them, as may be prescribed by regulation ;
- (g) on receipt of the prescribed fee, register all private registry offices, and carry out such inspection of the books of such offices as may from time to time be deemed necessary, and prescribe scales of fees to be charged at such offices and the conditions under which fees may be charged in respect of applications thereat ;
- (h) establish branch registries or labour bureaux in such districts or localities as the Minister may determine, for the collection and supply to the public of information as to the conditions of labour, domestic or industrial, and the state of trade in such districts or localities ;
- (i) investigate the causes of lack of employment in this Colony among white persons, and matters connected therewith, and report the result of his investigations to the Minister ;
- (j) investigate, on the instructions of the Minister, complaints by, or on behalf of, white employees as to their treatment by employers and the conditions of their employment, and report the result of the investigations to the Minister ;
- (k) make reports from time to time to the Minister on labour movements and the conditions of labour, whether in this Colony or elsewhere ;
- (l) supervise the conditions of apprenticeship in any undertaking, trade, or industry ;

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(*m*) generally, do all such acts and take all such proceedings as the Minister may require for the effective performance of his duties under this Act and the regulations.

CHAPTER II.

PREVENTION OF INDUSTRIAL DISPUTES, STRIKES AND LOCKOUTS PENDING INVESTIGATION.

Notice prior to alterations in wages etc., or hours of employment and continuance of existing conditions in respect of the same pending investigation by a board.

5. (1) After the coming into operation of this Act—

(*a*) no alteration shall be made by an employer, in relation to wages, allowances, or other remuneration of his employees or the price to be paid to them in respect of their employment, or to the hours of their work, unless one month's notice at least of the proposed alteration be given to all the employees who would be affected thereby ;
(*b*) no demand shall be made upon an employer by any of his employees to effect, within less than one month, any such alteration.

(2) If any such alteration be made by an employer and any of his employees have at the expiry of the said period of one month, made application for the appointment of a board, as hereinafter provided, the relationship between the employer and all the employees who would be affected by the alteration shall continue unaltered in respect of any of the matters described in paragraph (*a*) of sub-section (1), until any such matter has been investigated as an industrial dispute by a board under this Act and, unless the dispute be otherwise settled, until one month shall have elapsed after the publication as hereinafter provided of the report and recommendations of the board, provided that if the Minister decides as hereinafter mentioned that this Act does not apply to the dispute, the alteration may, as soon as the parties to the dispute have received notice of his decision, be made.

(3) If, after such investigation, the board reports to the inspector that either party to the dispute has used the provisions of this section so as to unfairly preserve existing conditions of employment, or so as to delay the alteration of

such conditions, that party shall be guilty of an offence and liable on conviction to the penalties mentioned in sub-section (3) or (4) of the next succeeding section, according as the party is the employer or employee.

6. (1) After the coming into operation of this Act it shall be unlawful for—

- Prohibition of any lock-out or strike pending reference of dispute to a board.
- (a) an employer to declare a lockout, or cause a lockout to be declared, or to aid in any manner the declaration or effecting of a lockout; or
 - (b) an employee to go on strike or to cause a strike; or
 - (c) any person to incite, encourage, or in any other manner aid an employer in effecting, declaring, or continuing a lockout; or
 - (d) any person to incite, encourage, or in any other manner aid employees in going, or continuing on strike,

on account of any industrial dispute, until the dispute shall have been investigated by a board under this Act and a period of one month shall have elapsed after the report and recommendations of the board have been published as hereinafter provided.

(2) Nothing in this section contained shall be construed as—

- (a) prohibiting, in a manner not constituting a strike or lockout, the suspension or discontinuance of any undertaking, industry, or trade to which this Act applies and the consequent suspension or discontinuance of the services of employees therein or thereat;
- (b) prohibiting a lockout or strike in respect of a dispute which has once been investigated by a board and its report and recommendations thereon published as hereinafter provided, except where the parties thereto have entered into such agreement as is described in section *twenty-five*.

(3) Any employer who contravenes the provisions of this section shall be liable on conviction to a fine of not less than one hundred pounds and not exceeding one thousand pounds for each day or part of a day that the lockout continues, or in default of payment to imprisonment for a period not exceeding twelve months, or to such imprisonment without the option of a fine.

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(4) Any employee who contravenes the provisions of this section shall be liable on conviction to a fine of not less than ten pounds and not exceeding fifty pounds for each day or part of a day during which he is on strike, or, in default of payment, to imprisonment for a period not exceeding three months, or to such imprisonment without the option of a fine.

(5) Any person who contravenes paragraph (c) or (d) of sub-section (1) shall be liable on conviction to a fine of not less than fifty pounds, and not exceeding two hundred and fifty pounds, or, in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine.

CHAPTER III.

APPOINTMENT OF BOARDS OF CONCILIATION AND INVESTIGATION.

Application by parties to a dispute for appointment of a board of conciliation and investigation.

Manner and form of application for appointment of a board.

7. Whenever there exists between an employer and any of his employees any industrial dispute which the parties thereto are unable to settle amicably, application may be made, by either party, for the appointment of a board of conciliation and investigation.

8. (1) Every application for the appointment of a board shall be in writing, and, so far as circumstances will allow, in the prescribed form.

(2) Every application shall be accompanied by a statement, setting forth—

(a) the names of the parties to the dispute ;

(b) the nature and cause of the dispute, and the claims or demands to which objection is taken, made by either party upon the other ;

(c) an estimate of the number of persons affected, or likely to be affected, by the dispute ;

(d) the efforts hitherto made by the parties to settle the dispute ;

(e) the address at or to which all documents required to be transmitted to or served upon the applicant, may be served or transmitted ;

and shall further be accompanied by a solemn declaration that the declarant believes that if the dispute be not investigated by a board under this Act, a lockout or strike (as the case may be) will result.

(3) There may be stated in every application the name of any person who is willing to act as a member of the board as the nominee of the applicant party.

(4) Every application and accompanying declaration,—

(a) if made by an incorporated company, shall be signed by a director, manager, or secretary of the company, duly authorized thereto ;

(b) if made by a local authority, shall be signed by the mayor, chairman, town clerk, secretary, or other similar officer, duly authorized thereto in writing ;

(c) if made by an individual, shall be signed by that individual, or if made by a partnership, shall be signed by the majority of partners resident in the Colony ;

(d) if made by employees who are members of a trade union, shall be signed by two officers of the trade union authorized by a majority vote of the members of the union present at a meeting specially summoned, on at least three days' notice, to discuss the advisability of making the application ;

(e) if made by employees, some or all of whom are not members of a trade union, shall be signed by two of such employees, duly authorized by a majority vote taken by ballot of the employees present at a meeting specially summoned as aforesaid and on the like notice.

(5) Every application and the documents which are to accompany it, as hereinbefore provided, shall be sent by registered post, addressed to the inspector or shall be personally served upon him, and the date of its receipt by him shall be deemed to be the date of the application.

9. (1) The applicant shall, simultaneously with the sending of the application to or service thereof upon the inspector, transmit, by registered post to, or personally serve on the other party to the dispute, a copy of the application and of the statement and declaration accompanying it.

Statements
of reply to
applications.

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(2) Within five days after the receipt of the same such other party shall transmit, by registered post, to, or personally serve upon the inspector and the applicant, a statement in reply.

(3) The statement of reply shall be addressed—

(a) where the applicant is the employer, to the applicant;

(b) where the applicants are employees and members of a trade union, to the president and secretary of such trade union;

(c) where the applicants are employees but some or all are not members of a trade union, then—

(i) if no person has been authorized to represent such employees, the statement in reply shall be addressed to at least ten of their number;

(ii) if in accordance with the last preceding section two persons were authorized to make application, the statement in reply shall be addressed to such two persons;

(iii) in the case of those employees who are members of a trade union, the statement in reply shall be addressed to the president and secretary of the union, as representing such employees.

(4) The statement of reply shall be in every case transmitted to or served upon the applicant or applicants at the address for service set forth in the statement accompanying his or their application.

Procedure in
relation to the
appointment
of a board.

10. (1) Within ten days after the date of the receipt of the application, the Minister shall decide whether or not the provisions of this Act apply to the dispute, and shall give notice of his decision to each of the parties. No dispute shall be the subject of reference to a board in any case in which the employees affected by the dispute are fewer than ten. The Minister's decision under this sub-section shall be final.

(2) If the Minister shall decide that the provisions of this Act do apply to the dispute, a board, consisting of three members, shall be appointed in manner following, that is to say—

(a) each party shall, within five days after receipt of the notice of the Minister's decision, nominate one person as a member of the board, and the Minister, if satisfied that such

person is willing to act as such member, shall appoint him; a person nominated under sub-section (3) of section *eight* at the time of the application, shall be deemed to have been nominated within such five days;

(b) if, at the expiry of the said five days or of such further period as the Minister may, on request of that party, or of his own motion, allow, either party has made default in nominating a member, the Minister shall himself forthwith appoint a fit person to be a member, who shall, for all purposes, be deemed to be appointed on the nomination of the party in default;

(c) the two members appointed on the nomination of the parties may, within five days after receiving notice of their appointment, nominate a third person as a member of the board, and the Minister, if satisfied that such person is willing to act, shall appoint him a member of the board;

(d) if, at the expiry of the said five days or of such further period as the Minister may, on application, or of his own motion, allow, the two members mentioned in paragraph (c) have made default in nominating a third person, the Minister shall, himself, appoint the third member, who shall be deemed, for all purposes, to have been appointed on the nomination of the said two members;

(e) the third member shall be chairman of the board.

(3) Anything to the contrary in this section notwithstanding, if any application or applications be made in relation to a dispute or disputes involving substantially the same issues as the issues in a dispute which a board is about to or has begun to investigate, the Minister may decide to refer both or all those applications (as the case may be) to one board, and may cancel the appointments of every member of a board already constituted to investigate a dispute involving those issues.

In the event of a reference under this sub-section of two or more applications to one board, that board shall consist of five, seven, or nine members, as the Minister may determine, who shall be nominated and appointed in the same

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proportions and in the same manner as in sub-section (2) is provided, except that the periods mentioned in that sub-section shall be reckoned from the receipt by the parties of the Minister's decision under this sub-section: in every other respect the provisions of sub-section (2) shall as far as possible apply. All the applicants in a dispute so referred to one board shall be regarded for the purpose of this Act as one party and all the respondents shall be likewise regarded.

Qualifications and dis-qualifications of members of board.

11. (1) No person who has any direct pecuniary interest in the issue of a dispute to be investigated by a board, shall be qualified to be appointed a member of such board, nor, if appointed, shall remain a member thereof.

(2) No person shall be qualified to be appointed unless he is a white person.

(3) A member of the board shall vacate his office—

(a) if he becomes insolvent, or assigns his estate for the benefit of his creditors, or makes an arrangement with his creditors;

(b) if he dies, or becomes of unsound mind, or is convicted of an offence for which he is sentenced to imprisonment without the option of a fine;

(c) if he is absent from two consecutive sittings or meetings of the board without leave of the Minister, unless the absence be due to illness, personal injury, or other physical cause notified in every such event to the secretary of the board before the conclusion of the later of the two sittings or meetings from which the member was absent;

(d) if he gives one week's notice in writing to the Minister of his intention to resign his office and his resignation be accepted by the Minister.

(4) If any member of the board shall vacate his office for any cause whatever, his place shall be filled in the manner in which by the last preceding section it is prescribed that the member who has vacated office be appointed.

Remuneration and allowances of members of the board.

12. (1) There shall be paid to each member of the board (other than any member who may be in the public service) a fee of—

(a) two guineas for every day (not exceeding three days) during which the two members

nominated by the parties are engaged in selecting for nomination a third member ;

(b) three guineas for every day or portion of a day on which the board is engaged in investigating or making report upon a dispute ;

provided that, if the board is so engaged on any day for less than three hours, no payment shall be made under this section to a member in respect of that day, unless the Minister is satisfied that the board was on that day engaged in concluding an investigation or report thereof.

(2) Every member of the board shall receive all reasonable expenses to which he may be put for travelling, and subsistence while travelling, in the course of his duties as a member, and if any question arises as to whether any such expenses are reasonable, it shall be determined by the Minister whose decision shall be final and conclusive.

17. (1) All expenditure, incurred by or on the order of the board, including—

Certification of expenses etc.

(a) the fees and allowances mentioned in the last preceding section ;

(b) travelling and subsistence allowances to witnesses and other persons acting under the orders of the board ;

(c) all other expenditure which may be incurred on the authority of the board, in accordance with regulation,

shall be paid out of the general revenue of the Colony, but only upon presentation of vouchers in the prescribed form certified by the chairman of the board.

(2) It shall be the duty of such chairman to transmit, from time to time, to the Minister the vouchers so certified, together with a detailed statement, likewise certified, of the sittings or meetings of the board, and of the members present at such sittings or meetings.

14. The department shall, if requested by the chairman of the board, provide a secretary thereof (who shall, if possible, be an officer in the Public Service), and shall further provide any such clerical assistance as the Minister may deem necessary for the effectual exercise of the functions of the board.

Secretary of board and clerical assistance.

Act No. 20 Oath of office
of 1909. and secrecy.

15. (1) Before exercising any of his functions, every member of the board shall take before a justice of the peace, an oath of office and secrecy in the Forms A and B, respectively, of the Schedule to this Act.

(2) The secretary, if required by the chairman, shall, in like manner, take an oath of secrecy before or at any time during the sittings of the board.

CHAPTER IV.

PROCEDURE BEFORE, AND POWERS, DUTIES, AND JURISDICTION OF BOARDS.

Mode of bringing parties to dispute before the Board.

16. As soon as may be after the appointments to the board are complete, the inspector shall transmit to the chairman thereof—

- (a) a copy of the application and the statement and declarations accompanying the same ;
- (b) a copy of any statement in reply ;
- (c) the names of the members of the board ;
- (d) a copy of the notice mentioned in this section ;

and, after consultation with the chairman of the board, the inspector shall further give to the parties written notice of—

- (i) the date, hour, and place at which the board will sit to investigate the dispute ; and
- (ii) the names of the members of the board, and shall, by such notice, summon the parties to appear at such hour and place, with the witnesses (if any) whom they desire to have examined, and place before the board the arguments and evidence in support of their several cases.

Quorum of board and decision of majority.

17. (1) Two members of the board, one of whom shall be the chairman, shall constitute a quorum of the board, unless it is shown, in the absence of the other member, that insufficient notice of the meeting or sitting was given to him ; provided that if, under the provisions of sub-section (3) of section *ten*, the board consists of five, seven, or nine members, the quorum of the board shall be respectively three, four or six members.

(2) Any decision, finding, report, or recommendation of the majority of the board shall be

deemed to be the decision, finding, report, or recommendation of the board.

18. (1) Any party to a dispute may appear before the board—

Appearance of parties before the board.

(a) in the case of an individual employer, in person ; or

(b) by any persons (not exceeding three in number) appointed by the party for the purpose, not being persons described in paragraph (c) ; or

(c) if the other party to the dispute consents, by an advocate or attorney of the Supreme Court qualified to practise therein, or by a duly admitted law agent qualified to practise in a court of resident magistrate.

(2) Every party so appearing shall be bound by the acts of its representatives.

(3) If any party to a dispute fails so to appear at any time, the board may, unless satisfied that the failure to appear was due to a reasonable cause, proceed as if such party were appearing.

19. The sittings of the board shall, as far as possible, be held in the vicinity of the premises in, or in respect of which, the dispute has occurred, unless the board otherwise determines.

Where sitting of board to be held.

20. (1) The board shall hold its sittings in public ; provided that if, on application or of its own motion, it shall determine that any part of its sittings be held in private, it may order all persons (other than the persons appearing before it, the witnesses under examination, and the officers of the board) to withdraw.

Publicity or not of proceedings and documents in discretion of the board.

(2) No document produced before the board or any information obtained from such document shall be made public, save in so far as the majority of the board may authorize publication ; and the board may order or cause to be sealed up, such portions of books, papers, or documents produced before it as do not, in its opinion, relate to any particular issue which it is considering.

21. (1) The board shall have, for the purposes of the investigation and any report and recommendations thereof—

Powers of board as to examination of witnesses, production of documents etc.

(a) the powers and jurisdiction of the Supreme Court in relation to summoning and enforcing the attendance of witnesses ;

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(b) the power to call for the production of books, papers, and other documents, and of any article or thing which it deems requisite for fully investigating and reporting upon the dispute ;

(c) the power to examine witnesses upon oath (such oath being administered by the chairman).

(2) Any person summoned to attend and give evidence before the board or to produce books, papers, or other documents, or any article or thing, who shall fail, without sufficient cause, to comply with the terms of the summons, shall be guilty of an offence and liable on conviction before a court of resident magistrate having jurisdiction, to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment for a period not exceeding three months.

(3) Any person, whether summoned or not, who shall, while under examination, refuse to answer or fail to answer satisfactorily to the best of his knowledge and belief, all questions lawfully put to him by or with the concurrence of the board, and every person who shall, at any sitting of the board, wilfully insult any member thereof, or wilfully interrupt its proceedings, or shall, at any time, obstruct or hinder a member of the board in the discharge of his duties, or conduct himself toward such member in an intimidating manner (whether by language or conduct), shall be guilty of an offence and liable to the penalty prescribed by sub-section (2), or to imprisonment, without the option of a fine, for the period therein mentioned. The board may order any such person insulting a member thereof, or interrupting its proceedings, to be removed from the sitting.

(4) Any person who, after being duly sworn as a witness, wilfully and corruptly gives false evidence before the board concerning any matter material to the investigation, shall be liable on conviction to the penalties prescribed by law for perjury.

(5) Nothing in this section contained shall be construed as depriving any witness of any privilege in respect of answering questions or producing documents if he would be entitled to such privilege in answering questions or producing documents before the Supreme Court.

(6) Save as aforesaid, the board, in conducting an investigation, shall not be bound by the law of evidence in force in this Colony as to the admissibility of evidence and the competency, examination, and cross-examination of witnesses.

22. (1) The board, or any member thereof, and any other person authorized in writing by the chairman of the board, may, at any time, enter upon any premises in or in respect of which any industry or trade or occupation is being carried on, or in which there is taking, or has taken place, any occurrence which concerns the investigation being held by the board.

Powers of
entry and
inspection.

(2) Upon entering upon such premises the board, or member thereof, or person aforesaid, may inspect and view any work, material, machinery, appliance, or article therein or thereon, and interrogate any person at work in or about such premises in relation to such trade, industry, occupation, or occurrence.

(3) Any person who obstructs or hinders the board, or member, or person aforesaid, in the exercise of the powers by this section conferred, or refuses to answer any interrogation lawfully put to him, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment for a period not exceeding three months.

23. The board may, with the consent of the Minister, call in assessors or employ persons approved by him, to examine the books, papers, and other documents of either party, or to advise the board upon technical matters or other facts material to the investigation, but it shall not disclose, or permit to be disclosed, the results of examining such books, papers, or documents, except with the consent of both parties to the dispute.

Employment
of assessors or
experts.

24. (1) Every board appointed to investigate a dispute shall use its utmost endeavours to settle the dispute which it is appointed to investigate, and for that purpose shall, as expeditiously as may be, enquire into the causes and subject of the dispute and all matters incidental thereto, and affecting the merits thereof.

General
jurisdiction
and duties of
board.

(2) In the course of the investigation it may make all such suggestions and do all such things

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as it may deem expedient and proper, to induce the parties to agree to a fair and equitable settlement.

(3) The board may adjourn its sittings from time to time and from place to place, prescribing such period as it deems reasonable for allowing the parties to agree upon terms of settlement. The time and place to which any sittings may be adjourned shall be notified to the persons appearing for the parties.

Circumstances under which recommendations may be enforced as like an arbitration board.

25. (1) Either party to the dispute may, at any time before or after the conclusion of the investigation, agree to be bound by the recommendations of the board in the same manner as parties to a submission under the Arbitration Ordinance 1904 are thereunder bound, and any agreement between the parties to be so bound may be made a rule of court and enforced in the same manner as an award which has been made a rule of court under section *seventeen* of the said Ordinance, and may be enforced as provided by that section.

(2) The draft of every such agreement may be transmitted by either party to the inspector, who shall send a copy thereof to the other party; if such other party agrees to be bound by the recommendations of the board, then such recommendations may be made a rule of court and enforced in manner aforesaid.

(3) Save as aforesaid, the report or recommendations of the board, or any proceedings had before it, shall not be enforced by any court of law.

Memorandum of settlement where the settlement effected during investigation by the board.

26. (1) If a settlement of the dispute be effected between the parties while it is being investigated by the board, a memorandum of the settlement shall be drawn up by the board and signed by each of the parties.

(2) Every such memorandum shall, if the parties agree to be thereby bound, be as binding and effectual as if made upon recommendations of the board under section *twenty-five*.

(3) A copy of such memorandum so signed, together with the report of the proceedings of the board, shall, as soon as possible, be transmitted to the Minister.

When settlement not effected during investigation by the board.

27. (1) If a settlement of the dispute be not effected between the parties while it is being investigated by the board, the chairman thereof shall, as soon as may be after the conclusion of

the investigation, transmit to the inspector, by registered post, a full report in writing of the investigation, setting forth—

(a) all the facts and circumstances ascertained by it, and, in particular, the cause or causes of the dispute ;

(b) a chronological account of the proceedings had before it ;

(c) the steps (if any) taken by the board during the proceedings to effect a settlement of the dispute ;

(d) the findings of the board and its recommendations for the settlement of the dispute in accordance with the merits thereof and with equity.

(2) The recommendations shall be signed by such members of the board as concur therein, and shall be addressed to the Minister.

(3) The recommendations of any member of the board who dissents from its recommendations, shall likewise be signed by such member and transmitted through the inspector addressed to the Minister.

(4) All such recommendations shall deal with every issue of the dispute, and shall state, in plain and concise language, omitting technicalities as far as possible, the opinions of the signatories as to what ought or ought not to be done by either party.

If the signatories are of opinion that any settlement proposed ought to remain in force for a definite period, such period shall be stated.

28. (1) Upon receipt of the report and recommendations of the board, the Minister shall forthwith cause copies thereof, to be published in the *Gazette*, to be sent to all the parties to the dispute, and, upon request made on behalf of any newspaper circulating in the Colony, to be sent to such newspaper for publication therein.

Publication of reports and recommendations of board and of any minority recommendations.

(2) The Minister may further cause any copies of the report and recommendations of the board to be published or circulated in any other manner which he may deem desirable for the purpose of securing compliance with the board's recommendations. The Minister shall give like publicity to the recommendations of any dissenting member of the board.

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(3) The department shall, upon application and payment of the fee prescribed by regulation, supply certified copies of such reports and recommendations to any person.

(4) The report and recommendations of the board and the recommendations (if any) of a dissenting member of the board shall further be laid on the tables of both Houses of Parliament, if Parliament be then in session, or if it be not then in session, within seven days after the commencement of its next ensuing session.

(5) The provisions of section *thirty-seven* of the Powers and Privileges of Parliament Act, 1907, shall apply *mutatis mutandis* to such reports and recommendations as are in this Act mentioned, immediately upon publication thereof as if they were such publications as are in the said section described

Courts of law not to recognize reports of or evidence before board except in case of perjury.

29. No proceedings had or evidence given before a board shall be cognizable before any court of law in this Colony, for any purpose whatsoever, save as is otherwise provided in this Act in respect of offences thereunder.

CHAPTER V.

MISCELLANEOUS.

Penalty on members or officer of the board accepting bribes and on person offering bribes to such member or officer.

30. (1) Any member or officer of the board who, whether for himself or for any other person, corruptly solicits or receives, or agrees to receive from any person any fee, advantage, or reward, whether pecuniary or otherwise, as an inducement to, or in consideration of, or otherwise on account of his acting or forbearing to act in conflict with the oath of office or secrecy taken by him, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years, and shall *ipso facto* become disqualified for appointment to any public office for a period of seven years from the date of such conviction.

(2) Any person who directly or indirectly gives, offers, or promises to a member or officer of the board, any fee, advantage, or reward, whether for the benefit of such member or officer or of another person, as an inducement for such member or officer to act or forbear to act in conflict with the

oath of office or secrecy taken by him, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years, and to a fine not exceeding five hundred pounds, or in default of payment, to a further period of imprisonment, not exceeding two years.

31. Any person who, three months after the coming into operation of this Act, shall be carrying on a private registry office without having registered the same with the department, or who, being the keeper or person in charge of such office, shall at any time fail on the request of the inspector or person authorised by the inspector to produce for inspection the books of such office or to give any information as to the business carried on thereat reasonably required of him or who, being a keeper or person in charge of such an office, shall charge fees at a higher rate than is prescribed under this Act by the inspector or charge a fee where no fee has been so prescribed, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding three months.

Penalty for not registering private registry offices or failing to allow inspection of books thereat.

32. Whenever any person shall be charged with an offence under this Act, the registrar or clerk of the court before which such person is charged, shall, within one month thereafter and whether or not a conviction is obtained, report concisely in writing to the inspector the particulars of the charge, the verdict or judgment thereon, and the sentence (if any) passed by the court.

Prosecutions under Act to be reported to inspector of white labour.

33. (1) In any proceedings against an incorporated company for an offence under this Act, the secretary, and every director or manager thereof in this Colony, may be charged with such offence and shall be liable to be punished therefor, unless he proves that he was in no way a party thereto.

Liability to punishment in case of offences against this Act by corporate bodies partnerships and trades unions.

(2) In like proceedings against a local authority the mayor, chairman, town clerk, secretary, or other similar officer shall be liable to be so charged with, and in like circumstances, punished for the offence.

(3) In like proceedings against a partnership every member in this Colony of such partnership shall be liable to be so charged, and in like circumstances, punished for the offence.

**Act No. 20
of 1909.**

(4) In like proceedings against a trade union, the president, secretary, and every other officer thereof in this Colony shall be liable to be so charged, and in like circumstances, punished for the offence.

(5) Provided that nothing in this section contained shall be deemed to exempt from liability any other person guilty of such offence.

Regulations.

34. (1) The Governor may, from time to time, make, alter, and rescind regulations, not inconsistent with this Act, prescribing—

(a) the powers and duties of the inspector ;

(b) the forms of registers and other records to be kept by the inspector ;

(c) the forms of application for the appointment of a board and of any summons of parties or witnesses to attend its proceedings ;

(d) the fees and allowances which may be made to witnesses or to other persons acting on the orders of the board, and the forms of vouchers and receipts for any fees and allowances payable under this Act ;

(e) the fees payable to the department for registering any private registry office or for supplying copies of any report or recommendation mentioned in this Act ;

(f) what returns, statistics, information, and reports shall be furnished to the inspector, and the periods at which the same shall be furnished, by employers, masters of apprentices, and by trade unions ;

(g) penalties for any contravention of or default in complying with the regulations, not exceeding a fine of fifty pounds, or, in default of payment thereof, imprisonment for a period of six months ;

and, generally, for the better carrying out of the objects and purposes of this Act.

(2) All such regulations shall be of force and effect on publication in the *Gazette*.

(3) All such regulations shall, within seven days after such publication, be laid on the tables of both Houses of Parliament, if Parliament be then in session, and, if Parliament be not then in session, within seven days after the commencement of its next ensuing session.

35. No proceeding under this Act had before a board, nor any act or omission of a board, shall be deemed invalid by reason of any defect in form or technical irregularity.

Defect in form not to invalidate proceedings of board.

Act No. 20 of 1909.

36. This Act may be cited for all purposes as the Industrial Disputes Prevention Act, 1909, and shall not come into operation, unless and until the Governor shall declare, by proclamation in the *Gazette*, that it is His Majesty's pleasure not to disallow the Act, and thereafter it shall come into operation on such date as the Governor may, by like proclamation, declare.

Title and date of operation of Act.

Schedule.

FORM A.

Oath of Office.

I,, do promise and swear that I will faithfully and diligently carry out, to the best of my ability, the several powers, jurisdiction, and duties conferred and imposed upon me under the Industrial Disputes Prevention Act, 1909, in investigating the dispute between

.....
 their
 employer and his employees, and will be just and equitable in carrying out its
 such powers, duties, and jurisdiction, and will act rightly as between the parties to the dispute, in accordance with the said Act and any other law without fear, favour, affection, prejudice, or ill-will.

SO HELP ME GOD.

.....
 Before me this.....day of.....19.....

.....
Justice of the Peace.

FORM B.

Oath of Secrecy.

I,, do promise and swear that I will not communicate or divulge any of those proceedings of the board which have, under section *twenty* of the Industrial Disputes Prevention Act, 1909, been conducted in private, or any evidence given or statements made at such proceedings, and further that I will not divulge the contents of any book or document produced before the board, or of any report or recommendation of the board, or of any member thereof, unless authorized in writing by the board.

.....
 SO HELP ME GOD.

.....
 Before me this.....day of.....19.....

.....
Justice of the Peace.

ACT NO. 21 OF 1909.] [Came into operation 16th July, 1909.]

Act No. 21
of 1909.

AN
ACT

To amend the Co-operative Agricultural Societies Act
1908 (Act No. 17 of 1908).

(Assented to 7th July, 1909.)

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

Dealings with other societies to be included in lawful objects of a society.

1. Whenever any of the objects of a co-operative agricultural society are such dealings between its members as are described in section *four* of Act No. 17 of 1908, similar dealings with other co-operative agricultural societies shall be deemed to be included among its lawful objects, anything in the said section *four* to the contrary notwithstanding.

Two or more preliminary meetings at different places and different times to be deemed one meeting for the purpose of section *seven* of Act No. 17 of 1908.

2. (1) For the purposes of section *seven* of the said Act the holding of any two or more meetings of members at different places and on different dates shall be deemed to be the holding of such a meeting as is in that section described, if the provisions of that section be complied with in respect of each of those meetings.

(2) Notwithstanding anything to the contrary in that section contained, it shall not be necessary for a meeting or meetings held under that section as hereby amended to select thereat the first auditor of the society.

Lists of members to be transmitted to registrar before registration.

3. (1) In addition to the particulars which by the said Act a society is required to transmit to the registrar of co-operative agricultural societies before it can obtain registration, the society shall also transmit to the registrar a list containing the full name, the true signature, the occupation, and the address of each member of the society.

(2) In the case of a co-operative agricultural society registered prior to the date of the coming into operation of this Act, the provisions of sub-section (1) of this section shall be deemed to be

complied, with if the said list be transmitted to the registrar within three months after that date. If within that period, or within such further period as the Minister of Agriculture may allow, the said list be not so transmitted, the said Minister may order the name of the society to be removed from the register of co-operative agricultural societies.

(3) A society shall not be capable of raising money by way of loan until the provisions of this section have been complied with, anything in the said Act to the contrary notwithstanding.

(4) The said list when transmitted to the registrar shall be filed by him in his office amongst the documents relating to the society and shall be open to the inspection at all reasonable hours of any member of the board or staff of the Land and Agricultural Bank, without charge, and of any other person on payment of such fee as the said Minister may prescribe.

(5) The board of directors of every society shall, within fourteen days after any change takes place in the membership of the society, whether by new admissions, death, resignation, or expulsion, transmit full information thereof, and in the case of a new admission, shall transmit to the registrar the new member's true signature.

(6) Every such list of members with all the particulars specified in sub-section (1) of this section when transmitted to the registrar of co-operative societies shall be published by him in the *Gazette*, and, whenever such registrar shall receive any information of any change in such list of members, he shall publish in the *Gazette* a supplementary list of all members who since the publication of the last list have become or have ceased to be members of the society.

(7) The said registrar shall be entitled to assume that every person whose name appears on any such list or supplementary list is a member of the society unless, within fourteen days after the publication thereof, any person shall satisfy him that he is not a member of the society.

(8) Whenever the Land and Agricultural Bank shall require evidence of the membership of any society, the said registrar at the request of the said Bank shall transmit to it a complete list of members for the time being of that society, duly certified by his signature.

Every such list so certified shall be *prima facie* evidence in favour of the said Bank

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that every person whose name appears in the list was a member of the society at the date thereof.

(9) Sub-section (2) of section *twenty-three* of the said Act shall be and is hereby repealed.

Amendment of section *sixteen* of Act No. 17 of 1908 as to period of holding annual general meeting.

4. Anything to the contrary notwithstanding in section *sixteen* of the said Act, it shall be sufficient if the annual general meeting of a co-operative agricultural society be held within two months after the close of its financial year.

Two or more special meetings at different times and places to be deemed to be one meeting for the purposes of section *nineteen* of Act No. 17 of 1908.

5. For the purposes of section *nineteen* of the said Act the holding of two or more special meetings at different places on different dates shall be deemed to be the holding of such a special meeting as in that section is described, if the provisions of that section be complied with in all other respects at and as regards each of those meetings. Provided that it shall not be necessary that the quorum prescribed in sub-section (3) of section *seventeen* of the said Act be present at more than one of such meetings; provided further that the chairman of the board or one of the directors of the society shall preside at each of such meetings.

Exemption from trading licenses to extend to business dealings with other societies.

6. The exemption granted to co-operative agricultural societies by section *twenty-six* of the said Act from the necessity of obtaining trading licenses, shall apply also, in so far as concerns the business dealings of such a society with other such societies.

Extension of provisions of Act No. 17 of 1908 to Government co-operative societies.

7. The Minister of Agriculture may from time to time by notice in the *Gazette* apply all or any of the provisions of the said Act to any societies, established to further co-operation in any agricultural or rural industry, and maintained or aided out of moneys appropriated by Parliament.

Title and date of operation of Act.

8. This Act may be cited for all purposes as the Co-operative Agricultural Societies Amendment Act 1909, shall be read as one with Act No. 17 of 1908, and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

ACT NO. 22 OF 1909.] [Came into operation 16th July, 1909.]

AN
ACT

**Act No. 22
of 1909.**

To amend the Rand Water Board Statutes, 1903 to 1906.

(Assented to 7th July, 1909.)

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

1. Section *one* of the Rand Water Board Incorporation Ordinance 1903 shall be and is hereby amended by the deletion therefrom of the words "Witwatersrand District" and the substitution for those words of the words "Magisterial Districts of Johannesburg, Boksburg, Germiston and Krugersdorp." Amendment of section *one* of Ordinance No. 32 of 1903.

2. Sections *fourteen*, *fifteen* and *sixteen* of the Rand Water Board Extended Powers Ordinance, 1904, and section *two* of the Rand Water Board Extended Powers Amendment Ordinance, 1905, shall be and are hereby repealed. Repeal of certain provisions of Rand Water Board Statutes.

3. (1) In addition to any powers of supply which may be acquired by the Board under the provisions of section *ten*, the Board may supply water in bulk to any local authority and in bulk or in retail— Powers of supply.

(a) to the Administration of the Central South African Railways, to any mines within the limits of supply, or to any consumer carrying on within the said limits any undertaking for the supply of traction or for the generation and supply of light, heat, and power, or for the treatment of ores or bye products, or for any purpose whatsoever incidental to mining ;

(b) to any consumer within the limits of supply, but outside the area of any such local authority ; and

(c) to any consumer within the area of any local authority with the consent of such local authority but not otherwise.

(2) "Consumer" in this Act shall mean any person to whom water may be supplied by the Board, other than local authorities or mines as defined in the Rand Water Board Statutes, 1903 to 1906.

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of 1909.**

Payment for water supplied and interest on payments in arrear.

4. (1) All water supplied by the Board to any local authority, mine, or consumer shall be paid for at the price fixed by the Board. Payment shall be made at the Board's offices on or before the fifteenth day of each month in respect of water supplied during the preceding month.

(2) On all sums which shall have become due in respect of water supplied during any month, and which are not paid as herein provided on or before the fifteenth day of the next succeeding month, interest shall be chargeable and recoverable by the Board at the rate of one per cent. for every month or portion of a month during which those sums shall remain unpaid.

(3) Such interest shall be reckoned from the last day of the month in which the sums in question shall have become payable as provided in sub-section (1), and shall be recoverable in the same manner as sums due in respect of water supplied.

Contributions by holders of mining title and local authorities to meet interest and redemption on Rand Water Stock.

5. (1) As from the first day of October 1909 the Board shall divide into two equal parts the fixed charges in respect of all Rand Water Stock issued prior to the taking effect of this Act after deducting therefrom an amount equal to—

(a) the interest receivable by the Board during the year from the investment of any unexpended balances of the proceeds of the issue of such stock ;

(b) any revenue received by the Board in such year in excess of that necessary to provide for the payments specified in paragraphs (a) (b) and (c) of sub-section (4) of section *nine* ;

and shall levy a contribution equal to each such part from the holders of mining titles within the limits of supply as provided in the next succeeding section and from the local authorities respectively.

(2) The contribution to be levied from the holders of mining titles is hereinafter referred to as "the mining contribution" and that to be levied from the local authorities as "the municipal contribution", and each such contribution shall be levied half-yearly in accordance with the provisions of this Act.

(3) The term "fixed charges" in this Act shall mean the annual payments specified in sub-sections (1) and (2) (c) of section *seventy-one* of the Rand Water Board Extended Powers Ordinance 1904.

6. The mining contribution shall be levied and recovered in the following manner :—

Provisions for recovery of contributions levied on tonnage crushed.

Act No. 22 of 1909.

(1) The Government Mining Engineer shall, on or before the thirtieth day of April 1910 and thereafter on or before the thirty-first day of October and the thirtieth day of April in every year, transmit to the Board a statement showing the number of tons of ore, earth, or other mineral substances crushed or milled for the extraction of gold during the six months ended on the last day of the preceding month from ground within the limits of supply held under claim licence, mynpacht brief, mining lease, or other mining title, together with the name and address of every holder of such a claim licence, mynpacht brief, mining lease, or other mining title and the number of tons crushed or milled as aforesaid from that ground.

(2) On receipt of every such statement the Board shall apportion the mining contribution among the said holders in proportion to the number of tons of ore, earth, or other mineral substance shown in such statement as having been crushed or milled from ground held by them respectively.

(3) The Board shall transmit to each of the said holders at the address shown in the statement a notice specifying the amount payable by him, ascertained as aforesaid, and the Board shall further specify in the notice the date on which payment is to be made. The date so specified shall be not less than twenty-one days after the transmission of the notice and shall be advertised by the Board, in a newspaper published and circulating in Johannesburg, not less than twenty-one days prior to that date.

(4) A statement transmitted by the Government Mining Engineer under sub-section (1) of this section shall be conclusive evidence of the number of tons of ore, earth, or other mineral substance crushed or milled by any such holder therein mentioned during the period covered by that statement.

(5) All amounts payable under the provisions of this section shall become due and payable on the date fixed by the Board as aforesaid.

(6) If any such amount be not paid on or before that date, interest at the rate of one per cent. per month or portion thereof on the

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of 1909.

Provisions for
recovery of
contributions
payable by
local
authorities.

amount unpaid shall be charged by the Board.

(7) All moneys due under this section to the Board may be recovered by it by action in any competent court.

7. The municipal contribution shall be levied and recovered in the following manner :—

(1) The Board shall apportion in accordance with the provisions of section *sixty-four* of the Rand Water Board Extended Powers Ordinance 1904 the amount so to be raised among the local authorities ; provided that the total valuation of each such local authority shall, for the purpose of the apportionment, be reduced by the amount of the valuation of all rateable property held under claim licence, mynpacht brief, mining lease, or other mining title included in that valuation. For the purposes of this section the Town Clerk of each local authority shall, in complying with the provisions of section *fifty-nine* of the Rand Water Board Extended Powers Ordinance 1904, distinguish between the value of property held under claim licence, mynpacht brief, mining lease, or other mining title and the value of other property.

(2) If any such local authority shall have failed to comply with the provisions of section *fifty-nine* of the Rand Water Board Extended Powers Ordinance 1904, the total valuation of that local authority for the purposes of the municipal section of the rating roll of the Rand Water Board shall be deemed to be the valuation appearing in the rating roll last made by that local authority, or, if no rating roll has been made, the valuation appearing in a rating roll which the Governor shall in that event cause to be made for the purposes of this section.

(3) The provisions of sections *sixty-six* and *sixty-nine* of the Rand Water Board Extended Powers Ordinance 1904 are hereby made applicable to the payment and recovery of all amounts payable by local authorities under this section ; provided that any special rate, which it may be necessary for any such local authority to levy in order to provide the amounts hereby made payable, shall not be levied in respect of any property held under claim licence, mynpacht brief, mining lease, or other mining title within the area of that local

authority ; provided further that any surplus raised by any such rate shall, after providing the sums hereby made payable, be applied in reduction of the next succeeding contribution payable by that local authority under the provisions of this Act.

(4) The first apportionment under this section shall be made in respect of the period from the first day of October 1909 to the thirty-first day of March 1910, and every succeeding apportionment shall be made for the several periods of six months succeeding.

(5) The precept issued by the Board to any local authority shall specify a date (not being less than six weeks after the date of the precept) on or before which the amount apportioned by the Board under this section in respect of that local authority shall be paid.

(6) If any local authority shall fail to pay the amount apportioned in respect of it under this section on or before the date fixed in the precept, interest shall be chargeable on the amount unpaid at the rate of one per cent. per month or portion thereof from the date so fixed for payment. All such interest shall be recoverable as if it were part of the amount apportioned by the Board in respect of that local authority.

8. All amounts received by the Board under sections *six* and *seven* shall be applied by the Board in paying the fixed charges and to no other purpose.

Application of contributions.

9. (1) The Board shall, as from the first day of October 1909, charge a uniform rate for water supplied to all those holders of mining title, or local authorities, from whom the mining or municipal contributions respectively are levied.

Charges for water supplied by the Board.

(2) In respect of water supplied to consumers, or to holders of mining title, or to local authorities (other than those specified in the preceding sub-section) the Board shall, as from the first day of October 1909, charge a uniform rate which shall not be less than, and may exceed by not more than one hundred per cent., the rate fixed under the provisions of that sub-section.

(3) Notwithstanding anything in this section contained the Board may, subject to the approval of the Governor, make special agreements with any local authority, mine, or consumer, to

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of 1909.

supply water at a price lower than the uniform charges in the following cases :— .

(a) where the water to be supplied is in the opinion of the Board of a quality rendering the same unfit for ordinary domestic or potable purposes ;

(b) where the water prior to its being actually used or consumed is pumped into a dam, in which case allowance may be made by the Board in the price charged for loss due to leakage, evaporation, flooding, cost of re-pumping, or other like causes.

(4) The charges to be made by the Board for water supply shall not exceed an amount which in the opinion of the Board will be sufficient to provide for—

(a) payment of all working costs incurred in carrying on the undertakings of the Board including all stamp duty and other expenses connected with the service and management of Rand Water Stock and also losses on investments made by the Board of moneys belonging to the Water Fund created by section *fifty-five* of the Rand Water Board Extended Powers Ordinance 1904 ;

(b) payment of any sum which may be required, in addition to the amounts received under the preceding sections, to meet fixed charges ;

(c) any amount which the Board may be empowered to set aside as a reserve fund under the provisions of section *fifty-six* of the Rand Water Board Extended Powers Ordinance 1904, and that section shall be construed as if the word “profits” therein means any revenue received by the Board over and above what is necessary to provide for the payments specified in paragraphs (a) and (b) of this sub-section, but not including mining or municipal contributions.

Transfer to Board by agreement of water undertaking of constituent local authority.

10. (1) The Board may enter into an agreement with any local authority (as by the Rand Water Board Statutes 1903 to 1906 defined) and notwithstanding anything in the law governing the powers of that local authority, it may enter into an agreement with the Board, for the acquisition by the Board and the transfer to it by the local authority of the water undertaking of that local authority.

(2) No such agreement shall be of any validity whatsoever until the Governor shall, by proclamation in the *Gazette*, have declared his approval

thereof ; but, from and after the date of the taking effect of that proclamation and so long as it remains in force, the Board shall be deemed to have all the powers and shall be subject to all the duties, conferred or imposed by law upon that local authority in respect of the water undertaking of that local authority, and so long as that proclamation remains in force the powers and duties conferred or imposed by law upon that local authority in respect of its water undertaking shall be in abeyance.

(3) Notwithstanding anything contained in the preceding section, if the Board shall acquire the water undertaking of any local authority under the provisions of this section it may impose such additional charges in respect of the supply of water by means of such undertaking as shall be sufficient to provide for the cost of carrying on such undertaking, including rent (if any), and for the payment of interest and redemption on any Rand Water Stock the proceeds of which have been used for the acquisition, improvement, or extension of such undertaking, provided that no contribution shall be leviable under this Act in respect of the fixed charges on any Rand Water Stock the proceeds of which have been so applied.

(4) The powers transferred to the Board from any local authority under the provisions of this section shall not include any borrowing powers, but the Board may exercise in respect of any water undertaking so transferred to it any borrowing powers which may from time to time be vested in it.

11. Section *ninety-seven* of the Rand Water Board Extended Powers Ordinance 1904 shall be and is hereby amended by the deletion therefrom of the words "and this report shall be laid annually before the Legislative Council by the Colonial Secretary."

Amendment of section *ninety-seven* of Ordinance No. 48 of 1904.

12. The provisions of sections *five* to *eight* inclusive of this Act shall cease to be of force as soon as all Rand Water Stock authorized at the coming into operation of this Act shall have been redeemed and all interest due in respect thereof shall have been paid.

Duration of Act.

13. This Act may be cited for all purposes as the Rand Water Board Further Powers Act, 1909, shall be read as if it were incorporated with the Rand Water Board Statutes, 1903 to 1906, and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

Title and date of operation of Act.

* The Act was first published in the *Gazette* on the 16th July, 1909.

ACT No. 23 OF 1909.] [Came into operation 16th July, 1909.

Act No. 23
of 1909.

AN
ACT

To make provision for the Election of Councillors of certain Municipalities in accordance with the principle of Proportional Representation.

(Assented to 7th July, 1909.)

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

Interpreta- **1.** In this Act unless inconsistent with the
tion of terms. context—

“commencement of this Act” shall mean the date upon which this Act came into operation ;

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

“municipal election statutes” shall mean Ordinance No. 38 of 1903 as amended by Ordinance No. 49 of 1904, Ordinance No. 26 of 1905 and Ordinance No. 24 of 1906 ;

“municipality” shall mean the municipality of Pretoria or of Johannesburg or any other municipality to which this Act is under section *two* applied ; and “the council” shall mean the council of any such municipality ; and “councillor” shall mean a member of a council ;

“the 1903 statute” shall mean Ordinance No. 38 of 1903 ;

Application
of Act.

2. (1) This Act shall apply to the municipalities of Pretoria and Johannesburg, and the laws mentioned in the First Schedule to this Act shall, to the extent set forth in the second column of that Schedule, no longer apply in respect of the election of councillors of those municipalities but shall be replaced by the provisions of this Act.

(2) The Governor may from time to time by proclamation in the *Gazette* declare that this Act shall apply in respect of the election of councillors of any other municipality the council of which is, at the commencement of this Act, elected in accordance with the municipal election statutes,

and where any particular year is fixed in respect of either of the municipalities mentioned in subsection (1) may, in the application of this Act to any other municipality, fix other particular years.

(3) The Governor may further give such directions, not inconsistent with this Act, as he may consider expedient for properly applying the provisions of this Act to any such other municipality.

3. (1) The Governor may, by proclamation in the *Gazette*, declare the number of wards into which any municipality shall be divided for the purposes of this Act and determine the boundaries of such wards, and by like proclamation fix the number of councillors to be elected for each such ward.

Wards of municipalities.

(2) The Governor may from time to time by proclamation in the *Gazette* alter the boundaries of or increase or decrease the number of the wards of a municipality and in case of any such alteration, increase, or decrease, determine the boundaries of the wards.

(3) The Governor may from time to time by like proclamation increase or decrease the number of councillors of any municipality.

(4) No proclamation issued under this section shall take effect until the next ensuing triennial election.

4. The boundaries of the wards of a municipality shall be so determined that each ward shall have an equal number of members and in such a manner that the number of voters in each ward shall, as far as possible, be equal, but in no case shall the number of voters in any ward be more than ten per cent. above or more than ten per cent. below that mean number of voters which represents exact equality, all fractions being disregarded.

Delimitation of boundaries of wards.

5. (1) Before exercising any of the powers mentioned in section *three* in respect of any municipality the Governor shall appoint a commission of one or more persons to consider and report as to the manner in which any such power should be exercised, and notice of the appointment, *personnel*, and first sitting of that commission shall be published in the *Gazette* and in a newspaper circulating in that municipality.

Appointment of commission.

(2) The Governor shall, before every triennial election, appoint a commission of one or more persons to consider and report whether any re-division of the wards of a municipality or any alteration of the boundaries thereof is necessary or expedient.

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(3) Any scheme prepared by a commission appointed under this section may be approved by the Governor with or without modifications.

(4) Every report of a commission appointed under this section shall be published once a week during three consecutive weeks by the Colonial Secretary in the *Gazette* and in a newspaper circulating in the municipality and, if the Governor shall have made any modifications in a scheme prepared by the commission, the Colonial Secretary shall simultaneously with the publication of that report publish those modifications.

(5) Any commission appointed under this section shall have all the powers jurisdiction and privileges mentioned in the Commissions Powers Ordinance 1902 as if they had been specially conferred upon it by section *five* thereof.

Making of
new voters'
roll.

6. Notwithstanding anything in the municipal election statutes contained, a new voters' roll shall be prepared in manner provided by the 1903 statute for the purpose of every triennial election, provided that, for the word "July" in sub-section (1) of section *seventeen* of the 1903 statute, the word "March" shall for the purposes of this section be deemed to be substituted, and every commission acting under this Act shall have regard to that voters' roll.

Existing
councillors to
continue in
office till
expiry of term
of office under
municipal
election laws.

7. (1) The councillors holding office in the municipalities of Pretoria and Johannesburg at the commencement of this Act shall continue in office until the date when their respective periods of office would, under the municipal election statutes, expire.

(2) An election shall be held in accordance with this Act and the Second Schedule thereto, on the last Wednesday in October in the year 1909, and a like election on the last Wednesday in October in the year 1910, for the purpose in each case of electing councillors to take the places of the councillors mentioned in sub-section (1) of this section.

(3) The councillors so elected shall continue in office until the day of the first triennial election hereinafter referred to.

(4) For the purposes of the said elections in 1909 and 1910 the municipality of Pretoria and the municipality of Johannesburg shall each be deemed to be one ward.

(5) For the purposes of any election held in terms of this section and of sub-section (3) of section *nine* the several wards of the municipalities of Pretoria and Johannesburg as defined by proclamation at the commencement of this

Act shall respectively be deemed to be polling districts. There shall be not less than one polling station in each such district, and a voter shall be entitled to vote only at a polling station in the district in respect of which his name appears on the voters' roll.*

8. (1) In the month of October 1911 and in that month in 1914 and in every succeeding third year there shall be an election of councillors (in this Act called the triennial election) in the municipalities of Pretoria and Johannesburg for the purpose of electing councillors to take the place of those who retire under the last preceding section. The councillors so elected shall continue in office until the day of the next ensuing triennial election.

Triennial elections in Pretoria and Johannesburg.

(2) Whenever at any triennial election a poll is required to be taken, such poll shall be taken on the last Wednesday in the month of October. That day shall be the day of the triennial election whether a poll is required to be taken or not.

9. The following provisions with regard to casual vacancies shall apply:—

Casual vacancies.

(1) A casual vacancy shall be deemed to be any vacancy except a vacancy caused by the retirement of a councillor on the expiry of the period of office for which he was elected.

(2) When and as often as any casual vacancy shall occur in the council, the councillor to be elected to fill that vacancy shall be elected in the manner provided for the election of councillors under this Act, provided that no election for the filling of casual vacancies shall be held in any ward unless the number of vacancies in that ward amounts to two or more; provided further that no election for the filling of casual vacancies shall be held within six months prior to the triennial election or prior to an election provided for in sub-section (2) of section *seven*.

(3) In the election of a councillor to fill a casual vacancy occurring before the first triennial election in 1911, the municipality of Pretoria and the municipality of Johannesburg shall each be deemed to be one ward.

(4) A councillor elected to fill a casual vacancy shall hold office until the next ensuing triennial election.

10. (1) At the first meeting of the council held in November in every year the councillors present shall elect a councillor to be Mayor of the

Election of Mayor and Deputy Mayor.

* For place of recording of votes of persons resident in that area which was added to the Municipality of Pretoria by Govt. Notice No. 767 of 1908 see Govt. Notice No. 1018 of 1909 (*Gazette*, 31st Sept., 1909, p. 954).
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municipality and shall also elect a councillor Deputy Mayor of the municipality.

(2) The Mayor and the Deputy Mayor shall each forthwith enter upon his office and continue therein until his successor be appointed after the next ensuing election of Mayor or Deputy Mayor (as the case may be), unless he sooner vacates his office. In that event a successor shall, at the meeting next but one of the council after the vacancy has occurred, be chosen by the councillors, and the successor chosen shall forthwith enter upon his office as Mayor or Deputy Mayor (as the case may be) for the remainder of the period for which the vacating Mayor or Deputy Mayor was elected.

(3) If a Mayor or Deputy Mayor for any reason be not elected at a meeting as in this section mentioned he may be elected at the next ordinary meeting or at a special meeting called for the purpose.

Election of councillors in accordance with the principle of proportional representation.

11. (1) Every election of councillors under this Act shall, whenever such an election is contested, be according to the principle of proportional representation. The method of voting and of transferring and counting votes and the duties of returning officers in connection therewith, shall be as prescribed in this Act and the regulations set forth in the Second Schedule thereto.

(2) The Governor may, from time to time by notice in the *Gazette*, alter or rescind such regulations, and any alteration or rescission shall be laid upon the tables of Parliament within seven days after publication in the *Gazette* if Parliament be then in session, or, if it be not then in session, within seven days of the commencement of the next ensuing session.

Voting to be by ballot.

12. The voting at any election of councillors held under this Act shall be by ballot which shall be conducted, in substance and as nearly as possible, as follows :—

(1) The presiding officer at every polling station (hereinafter referred to as the presiding officer) shall ascertain that the person desiring to vote is a voter enrolled upon the voters' roll for the ward in which the polling station is situate and, having ascertained that such person is so enrolled and his number on such roll, shall enter his number upon the counterfoil in the ballot paper book and shall then tear out the ballot paper corresponding to that counterfoil, and, having stamped the ballot paper with a perforating stamp provided for the purpose,

shall hand it to the voter. Every ballot paper shall be in the form prescribed in the Third Schedule to this Act with such printed instructions as the council may order.

(2) When the voter has received a ballot paper, on which shall be printed in alphabetical order the names of all candidates duly nominated for election, he shall take the same to a compartment and desk provided for the purpose and signify in manner provided by the next succeeding section for whom he desires to vote. The voter shall then fold the ballot paper so that the perforated mark may be visible and, having held up the ballot paper so that the polling officer can recognise the perforated mark, shall drop the ballot paper in the ballot box placed in front of the polling officer.

(3) If the voter either sign his name on the ballot paper, or write any word thereon or make any mark thereon by which his ballot paper would become recognisable, then that ballot paper shall be considered blank and not be taken into account.

13. (1) At any election under this Act every voter shall have one vote only. Manner of voting.

(2) A voter in giving his vote—

(a) must place on his ballot paper the numeral 1 in the space opposite the name of the candidate for whom he desires to vote ;

(b) may in addition place on his ballot paper the numeral 2 or the numerals 2 and 3, or 2, 3, and 4, and so on, each in the several spaces opposite the names of other candidates, in the order of his preference.

14. A ballot paper shall be invalid—

(a) which does not bear the perforated mark ; or

(b) on which the single numeral 1 is not set opposite the name of one candidate ; or

(c) on which the single numeral 1 is set opposite the name of more than one candidate ; or

(d) which bears any mark or writing by which a voter can be identified otherwise than is in the 1903 statute prescribed ; or

(e) is unmarked or void for uncertainty.

Circumstances invalidating ballot paper.

* **15.** The Governor may appoint a returning officer at any election under this Act and fix a fee Appointment of returning officer.

* For appointment of returning officer for Pretoria municipal elections, 1909, see Govt. Notice No. 1164 of 1909 (*Gazette*, 8th Oct., 1909, p. 80).

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to be paid to him by the council, and every such election shall be held before that returning officer; provided that no candidate for election shall be appointed or act as returning officer thereat.

Circumstances in which a councillor vacates office.

16. (1) Any councillor who—

(a) ceases to possess the qualifications required by the municipal election statutes or becomes disqualified thereunder; or

(b) absents himself from the meetings of the council for four consecutive ordinary meetings without leave of the council; or

(c) is a paid agent for a candidate at any election under this Act during his period of office;

shall *ipso facto* vacate his office and the Mayor shall at a meeting of the council, which shall if possible be the next meeting, declare the vacancy.

(2) If any person elected a councillor shall die or become disqualified or cease to be qualified or shall resign or refuse to accept office as councillor, or if a vacancy occurs in any other manner whatever, the vacancy shall forthwith be filled in manner prescribed by this Act.

(3) A councillor whose office has been declared vacant by the Mayor under this section may apply by motion to the Supreme Court, or to the Witwatersrand High Court if the matter be within the area of jurisdiction thereof, or, if such Court be not sitting, then to a Judge of the Supreme Court, to have the declaration of vacancy set aside; provided that written notice of the intention to so apply shall be given to the Town Clerk within two days after the declaration of vacancy and the application to Court shall be made within fourteen days thereafter.

Provisions in municipal election statutes applied to elections under this Act unless excluded thereby.

17. Whenever any provision of the municipal election statutes is applicable to an election under this Act and its application to such an election has not been expressly excluded by section *two* of this Act, then that provision shall be applied, as far as possible, to like circumstances arising out of or in connection with such an election.

Title and date of operation of Act.

18. This Act may be cited for all purposes as the Municipal Elections (Proportional Representation) Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

* The Act was first published in the *Gazette* on the 16th July, 1909.

First Schedule.

**Act No. 23
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Laws declared inapplicable.	Extent to which inapplicable.
Ordinance 38 of 1903 	Sections <i>one, seven, eight, twenty-one, twenty-two, twenty-three, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, forty, forty-one, forty-six, forty-seven,</i> and Schedule No. 1.
Ordinance 49 of 1904 	Sections <i>one, two, three,</i> and <i>four.</i>
Ordinance 26 of 1905 	Sections <i>two, three, four, five, eight,</i> and sub-section (1) of section <i>nine.</i>

*** Second Schedule.**

Regulations for the Transfer and Counting of Votes and for ascertaining the result of the Poll.

1. In these Regulations—

- (1) "*Unexhausted papers*" mean ballot papers on which a further preference is recorded for a continuing candidate.
- (2) "*Exhausted papers*" mean ballot papers on which no further preference is recorded for a continuing candidate, provided that a paper shall be deemed to be *exhausted* in any case in which
 - (a) the names of two or more candidates whether already excluded from the poll or declared elected or not are marked with the same numeral and are next in order of preference, or
 - (b) the name of the candidate next in order of preference at any given time or of some candidate whether continuing or not higher in the order of the voters' preference is marked
 - (i) by a numeral not following consecutively after some other numeral on the ballot paper, or
 - (ii) by two or more numerals.
- (3) "*Continuing Candidates*" mean candidates not elected or not excluded from the poll at any given time.
- (4) "*First Preference*" means the numeral 1 set opposite the name of any candidate; second preference similarly means the numeral 2, third preference the numeral 3, and so on.
- (5) "*Original Votes*" in regard to any candidate mean the votes derived from ballot papers on which a first preference is recorded for such candidate.
- (6) "*Transferred Votes*" in regard to any candidate mean votes credited to such candidate derived from ballot papers on which a second or subsequent preference is recorded for such candidate.
- (7) "*Surplus*" means the number by which the votes of any candidate original or transferred exceed the quota.
- (8) "*Absolute majority*" means more than one half of all the votes for the time being counted in favour of candidates, no account being taken of exhausted votes given in favour of an excluded candidate.

2. In carrying out these rules the Returning Officer shall

- (a) disregard all fractions,
- (b) ignore all preferences recorded for candidates already elected or excluded from the poll.

* See Govt. Notice No. 1163 of 1909 (*Gazette*, 8th Oct., 1909, p. 80) amending these regulations.

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Where one person only has to be elected.

3. The ballot papers shall be mixed and the Returning Officer shall draw out all papers which he does not reject as invalid and divide them into parcels according to the first preferences recorded for each candidate. He shall then count the number of papers in each parcel. If any candidate obtains an absolute majority of votes he shall be declared elected.

4. If no candidate obtains an absolute majority, the Returning Officer shall exclude from the poll the candidate with the smallest number of votes, by examining his papers and transferring to other candidates the unexhausted papers according to the next preference recorded thereon; the Returning Officer shall in each case add the votes so transferred to the total of the votes of the candidate to whom the transfer is made.

5. Until some candidate obtains an absolute majority the Returning Officer shall in the same manner as directed by the preceding rule exclude from the poll the candidates not previously excluded, one after another, the candidate with the smallest number of votes, original or transferred, being always first excluded.

6. A candidate who as a result of any operation prescribed by the last preceding rules obtains an absolute majority shall be declared elected.

7. If at any time two or more candidates, one of whom ought to be excluded, have an equal number of votes, the Returning Officer shall determine by lot which of them shall first be excluded.

When more than one person has to be elected.

8. The ballot papers shall be mixed, and the Returning Officer shall draw out all ballot papers which he does not reject as invalid and divide them into parcels according to the first preferences recorded for each candidate. He shall then count the number of papers in each parcel.

9. The Returning Officer shall then add together the numbers of the papers in all the parcels and divide the total by a number exceeding by one the number of vacancies to be filled, and the result increased by one shall be the number of votes sufficient to secure the return of a candidate, herein called the "quota."

10. If at any time under these regulations a number of candidates equal to the number of persons to be elected has obtained the quota, such candidates shall be treated as elected and no further steps shall be taken.

11. (1) Any candidate whose parcel, on the first preferences being counted, contains a number of papers equal to or greater than the quota shall be declared elected.

(2) If the number of papers in any such parcel is equal to the quota, the papers shall be set aside as finally dealt with.

(3) If the number of papers in any such parcel is greater than the quota, the surplus shall be transferred to other candidates in the manner prescribed in the following regulation.

12. (1) If more than one candidate has a surplus the largest surplus shall be dealt with first and the others in order of magnitude; provided that every surplus arising on the first count of votes shall be dealt with before those arising on the second count and so on.

(2) Where two or more surpluses are equal the Returning Officer shall decide according to the terms of regulation *seventeen* which shall first be dealt with.

(3) (a) If the surplus of any candidate to be transferred arises from original votes only, the Returning Officer shall examine all the papers in the parcel belonging to the candidate whose surplus is to be transferred and divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon.

(b) He shall also make a separate sub-paragraph of the exhausted papers.

(c) He shall count the papers in each sub-paragraph and the total of all the unexhausted papers.

(d) If the total of unexhausted papers is equal to or less than the surplus he shall transfer all the unexhausted papers.

- (e) If the total number of unexhausted papers is greater than the surplus, he shall transfer from each sub-parcel of unexhausted papers that number which bears the same proportion to the total of the sub-parcel as the surplus bears to the total of all unexhausted papers.
- (f) The number of papers to be transferred from each sub-parcel shall be ascertained by multiplying the total of the sub-parcel by the surplus and dividing the result by the total number of unexhausted papers.
- (g) The Returning Officer shall mix the papers in each sub-parcel and transfer the requisite number to each candidate from the top of the sub-parcel.
- (4) If the surplus of any candidate to be transferred arises from transferred as well as original votes, the Returning Officer shall re-examine all the papers in the sub-parcel last transferred to the candidate and divide the unexhausted papers into sub-parcels according to the next preferences recorded. He shall thereupon deal with the sub-parcels in the same manner as is provided in the case of the sub-parcels referred to in sub-section (3) (c), (d), (e), (f), and (g) of this regulation.
- (5) The papers transferred to each candidate shall be added to the papers already belonging to such candidate in the form of a sub-parcel.
- (6) If as the result of a transfer of papers under this regulation the votes obtained by a candidate are equal to or greater than the quota, the transfer then proceeding shall be completed, but no further papers shall be transferred to him from any other candidate.
- (7) All papers in a parcel of an elected candidate not transferred under this regulation shall be set aside as finally dealt with.
- (8) A transfer of papers under this regulation shall not be made
- (i) unless the surplus next to be transferred exceeds the difference between the totals of the votes of the two continuing candidates lowest on the poll ;
- (ii) if under the terms of these regulations a number of candidates equal to the vacancies to be filled has already been elected.

13. If after the completion of the transfer of any particular surplus any candidate shall have obtained a number of votes equal to or greater than the quota he shall be declared elected.

14. (1) If after all surpluses other than a surplus referred to in sub-section (8) of regulation *twelve* have been transferred, as hereinbefore directed, less than the number of candidates required has been elected, the Returning Officer shall exclude from the poll the candidate having the fewest votes and shall distribute his unexhausted papers among the continuing candidates according to the next preferences recorded thereon. Any exhausted papers shall be set aside as finally dealt with.

(2) If in any case the total number of the votes of the two or more candidates lowest on the poll together with any surplus votes not transferred is less than the votes of the next highest candidate, the Returning Officer may in one operation exclude those candidates from the poll and distribute their votes in accordance with the last preceding sub-section.

(3) If after the completion of any transfer of votes under this regulation any candidate shall have obtained a number of votes equal to or greater than the quota he shall be declared elected.

(4) If such candidate shall have obtained a number of votes equal to the quota the whole of the papers on which such votes are recorded shall be set aside as finally dealt with.

(5) If such candidate shall have obtained a number of votes greater than the quota his surplus shall thereupon be distributed in the manner provided in regulation *twelve*.

15. The process directed by the last preceding regulation shall be repeated on the successive exclusions one after another of the candidates with the lowest number of votes until the last vacancy is filled either by the election of a candidate with the quota or under the next succeeding regulation.

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16. (1) When the number of continuing candidates is reduced to the number of vacancies remaining unfilled the continuing candidates shall be declared elected.

(2) When only one vacancy remains unfilled and the votes of some one continuing candidate exceed the total of all the votes of the other continuing candidates together with any surplus not transferred, that candidate shall be declared elected.

(3) When more than one vacancy remains unfilled and the votes of the candidate, who, if all the vacancies were filled by the successive elections of the continuing candidates with the largest number of votes, would be the last to be elected, exceed the total of all the votes of all the continuing candidates with fewer votes than himself, together with any surplus votes not transferred, that candidate and all the other continuing candidates who have not less votes than himself shall be declared elected.

(4) When only one vacancy remains unfilled and there are only two continuing candidates and those two candidates have each the same number of votes and no surplus votes remain capable of transfer, one candidate shall be declared excluded under the next succeeding regulation, and the other declared elected.

17. If when there is more than one surplus to distribute, two or more surpluses are equal or if at any time it becomes necessary to exclude a candidate and two or more candidates have the same number of votes and are lowest on the poll, regard shall be had to the number of votes counted to each candidate under regulation *eight*, and the candidate for whom least first preferences are recorded shall be excluded. If the number of their first preferences are equal the Returning Officer shall decide by lot which candidate shall be excluded.

18. (1) Any candidate or his agent may at any time during the counting of the votes, either before the commencement or after the completion of the transfer of the votes (whether original or transferred votes) of any candidate, request the returning officer to recount the papers then comprised in the parcels of all or any candidates (not being papers set aside as finally dealt with) and the returning officer shall forthwith recount the same accordingly. The returning officer may also at his discretion recount votes either once or more often in any case in which he is not satisfied as to the accuracy of any previous count. Provided that nothing herein shall make it obligatory on the returning officer to recount the same votes more than once.

(2) If upon an election petition—

(i) any ballot papers counted by the returning officer are rejected as invalid, or

(ii) any ballot papers rejected by the returning officer are declared valid the Court may direct the whole or any part of the ballot papers to, be recounted and the result of the election ascertained in accordance with these regulations.

(3) Except as in this regulation expressly provided no recount shall be had whether on an election petition or otherwise.

19. (1) If any question shall arise in relation to any transfer the decision of the returning officer, whether expressed or implied by his acts, shall be final, unless an objection is made by any candidate or his agent before the declaration of the poll, and in that event the decision of the returning officer may be reversed upon an election petition.

(2) If any decision of the returning officer is so reversed, the transfer in question and all operations subsequent thereto shall be void and the Court shall direct what transfer is to be made in place thereof, and shall cause the subsequent operations to be carried out and the result of the election to be ascertained in accordance with these regulations.

Third Schedule.

**Act No. 23
of 1909.**

FORM OF FRONT OF BALLOT PAPER.

Counter-foil No.

Order of Preference.	Names of Candidates.
	<p style="text-align: center;">BROWN.</p> <p>(John Brown, of.....Street, *.....(Merchant).</p>
	<p style="text-align: center;">COHEN.</p> <p>(Abraham Cohen, of.....Street, *.....(Storekeeper).</p>
	<p style="text-align: center;">JAMES.</p> <p>(Alfred James, of.....Street, *.....(Accountant).</p>
	<p style="text-align: center;">JONES.</p> <p>(Henry Jones, of.....Street. *.....(Builder).</p>
	<p style="text-align: center;">LEVY.</p> <p>(Isaac Levy, of.....Street, *.....(Bootmaker).</p>
	<p style="text-align: center;">MAYNARD.</p> <p>(Paul Maynard, of.....Street, *.....(Carpenter).</p>
	<p style="text-align: center;">OOSTHUIZEN.</p> <p>(Johannes Oosthuizen, of.....Street, *.....(Attorney).</p>
	<p style="text-align: center;">PAIN.</p> <p>(Herbert Pain, of.....Street, *.....(Blacksmith).</p>
	<p style="text-align: center;">ROBINSON.</p> <p>(George Robinson, of.....Street, *.....(Grocer).</p>
	<p style="text-align: center;">SMIT.</p> <p>(Jacobus Smit, of.....Street, *.....(Broker).</p>
	<p style="text-align: center;">VAN DER SPUY.</p> <p>(Petrus van der Spuy, of.....Street, *.....(Architect).</p>

Note : The counter-foil must show the number corresponding to that on the back of the ballot paper.

* Here insert the name of town.

MUNICIPAL ELECTIONS (PROPORTIONAL REPRESENTATION).

INFANT LIFE PROTECTION.

Act No. 23 of 1909.

Instructions to Voters.

- A. Each elector has one vote and one vote only.
- B. The elector votes—
 - (a) by placing the single numeral 1 opposite the name of the candidate he likes best.
 He is also invited to place—
 - (b) the numeral 2 opposite the name of his second choice ;
 - (c) the numeral 3 opposite the name of his third choice, and so on, numbering as many candidates as he pleases in the order of his preference.
- N.B.—The vote will be spoilt if the single numeral 1 is placed opposite the name of more than one candidate.

No..... Form of back of Ballot Paper.

Election for Town Council of†.....

NOTE.—The number on the back of the ballot paper is to correspond with that in the counterfoil.

† Here, insert name of municipality.

ACT NO. 24 OF 1909.] [Came into operation 1st Jan., 1910.

Act No. 24 of 1909.

AN ACT

For the Better Protection of the Lives of Infant Children.

(Assented to 7th July, 1909.)

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

Interpretation of terms. 1. In this Act unless inconsistent with the context—

“infant” shall mean a child under the age of seven years ;

“magistrate” shall include a resident magistrate and an assistant resident magistrate.

“policeman” shall mean a European constable, non-commissioned officer, or commissioned officer of the police force established under the Transvaal Police Act 1908 or any amendment thereof.

Notice to be given by any person retaining or receiving any infant for maintenance.

2. (1) Any person retaining or receiving an infant for the purpose of nursing or maintaining such infant apart from his or her parent or parents for a period longer than three days shall, within forty-eight hours thereafter, if the place where such infant is retained or received is in a

municipal area and within one week thereafter if such place is not in a municipal area, give notice in writing to the magistrate of the district or the field cornet of the ward in which such place is situate of such fact.

(2) Any person who, at the date of the taking effect of this Act, has in his care, custody, or control any infant for the purpose of nursing or maintaining such infant apart from his or her parents for a period longer than three days shall, not later than one month after the taking effect of this Act, give notice thereof in accordance with the provisions of the preceding sub-section.

3. Such notice shall state truly the christian name, if bearing any, age and sex of such infant, the name of the person receiving, retaining, or having the care, custody, or control of the infant, and the dwelling within which such infant is being kept and the reward, if any, being received by any person in respect of its maintenance.

Particulars of notice.

The notice shall also state the name and address of the parents of such infant or, if the infant is illegitimate, of the mother thereof.

4. If any such infant be removed from the care of the person mentioned in the notice aforesaid, or if such person change his residence, he shall forthwith give to the magistrate of the district or the field cornet of the ward notice of the removal or change of residence, as the case may be, showing his new place of residence or, if the infant has been removed from his care, the name and address of the person to whose care the infant has been transferred.

Notice of removal of infant to be given.

5. Any person who shall have the care or custody of an infant for the purpose of nursing or maintaining such infant apart from his or her parent or parents for a period longer than three days shall, if such infant die, give immediate notice thereof to the magistrate of the district or field cornet of the ward, and such notice shall state specially whether any other infant to whom this Act applies has, at any time previous to such death notice, died under the care or custody of such person.

Notice to be given if infant dies.

6. Any field cornet receiving any notice under this Act shall immediately transmit it to the magistrate of his district.

Duty of field cornet receiving notice.

7. If any person who is required to give any notice under this Act omits to give such notice as required by this Act or knowingly or wilfully makes, or causes or procures any other person to

Failure to give notice an offence.

**Act No. 24
of 1909.**

Duties of
magistrate in
certain cases.

Duty of
magistrate on
receiving
notices.

Power of field
cornet to visit
and inspect
infant.

Power to
appoint in-
spectors and
visitors.

Powers of
inspectors
and visitors.

Medical
examination
of infant.

make, any false statement in any such notice, he shall be guilty of an offence against this Act.

8. In the case of any infant in respect of whom the notice required under section *two* or section *four* of this Act is omitted to be given, the magistrate of the district in which such infant is retained or received, or to which such infant has been removed, shall have the same duties and powers as are set forth in the next succeeding section.

9. The magistrate receiving any notice given under section *two* or *four* of this Act shall cause inquiry to be made into the circumstances of the case and shall have power, should he be satisfied that it is not in the best interests of the infant to remain with the person giving such notice, to order the removal of such infant to the care, custody, and control of some other person or institution willing to receive and maintain such infant, as to such magistrate may seem meet, unless the parent or parents of such infant shall within three days make suitable provision for the custody of such infant; provided that the inquiry so to be made shall not extend to or include any question as to the parentage of such infant.

10. Any field cornet may from time to time visit and inspect any infant to whom this Act applies who is retained or received at any place, not being in a municipal area situate in his ward, and the premises in which such infant is retained or received, and report the result of such inspection to the magistrate of the district.

11. The magistrate of the district shall have the power and authority, by writing under his hand, to appoint voluntary inspectors and visitors to assist him in carrying out the provisions of this Act, and may arrange for any infant to be visited or inspected by such inspectors or visitors.

12. Any inspector or visitor duly appointed and authorized as aforesaid, and any policeman, may from time to time visit and inspect any infant to whom this Act applies and the premises in which such infant is retained or received, in order to secure the proper maintenance and treatment of such infant.

13. A magistrate may at any time order the medical examination of any infant within his district to whom this Act applies and, upon such order being made, the district surgeon shall have authority to make such examination.

14. If any person having the care, custody, or control of an infant to whom this Act applies refuses to allow or obstructs any inspection or examination of such infant or any inspection of the premises in which such infant is retained or received authorized under this Act, such person shall be deemed to be guilty of an offence against this Act.

Obstruction of inspection or examination an offence.

15. If any person having the care, custody, or control of an infant to whom this Act applies ill-treats or neglects such infant or causes or procures such infant to be ill-treated or neglected in a manner likely to cause such infant unnecessary suffering or injury to his health, such person shall be deemed to be guilty of an offence against this Act, and such infant may, by order of the magistrate of the district, be removed to the care, custody or control of some other person or institution willing to receive and maintain such infant, as to such magistrate may seem meet, unless the parents of such infant shall within three days make suitable provision to the satisfaction of such magistrate for the custody thereof.

Ill-treating or neglecting infant an offence.

16. It shall be an offence against this Act on the part of any person to effect any insurance on the life of any infant to whom this Act applies, and any policy of insurance made after the passing of this Act in contravention of the provisions of this section shall be void and of no effect.

No insurance may be effected on life of infant.

17. It shall be the duty of the magistrate of the district to fix the number of infants who may be received or maintained in any dwelling under the provisions of this Act, and any person receiving or maintaining any infant in excess of the number so fixed shall be deemed to be guilty of an offence against this Act, and such infant may be removed as provided in section *fifteen* of this Act.

Magistrate to fix number of infants who may be received in any dwelling.

18. An order of removal made under this Act may be enforced by any inspector or visitor appointed under section *eleven* or by any policeman. Any person refusing to comply with any such order of removal upon its being produced and read over to him, or obstructing or causing or procuring to be obstructed any such inspector or visitor or any policeman in the execution of such order, shall be guilty of an offence against this Act.

Enforcement of order for removal of infant.

19. The publisher of any newspaper published in this Colony shall on the request of the magistrate of the district of publication disclose to such magistrate the name and address of any person in this Colony who has advertised in such

Name and address of advertiser to be disclosed by publisher of newspaper.

Act No. 24
of 1909.

Penalty for
offence
against Act.

newspaper that he is willing to adopt or to undertake the care, custody, or control of any infant. Any failure to comply with this section shall constitute an offence against this Act.

20. Any person who commits an offence against this Act shall be liable on conviction to a fine not exceeding one hundred pounds, or, in default of payment, to imprisonment, with or without hard labour, for a period not exceeding six months, or to both such fine and imprisonment.

Prosecutions
under other
laws not
limited.

21. Nothing in this Act contained shall be deemed to affect in anyway the liability to penalties of any person having the care, custody, or control of an infant to whom this Act applies, by reason of any offence committed in respect of such infant which is not specially provided for under this Act.

Right of
parents to
custody of
infant.

22. Nothing in sections *nine* and *fifteen* of this Act shall deprive the parent or parents of any infant removed by order of a magistrate of the right of thereafter claiming the custody of such infant or making other suitable provision therefor.

Presumption
of age of
child.

23. Where a person is charged with an offence against this Act in respect of a child who is alleged in the charge or indictment to be an infant under the age of seven years and the child appears to the Court to be under that age such child shall, for the purposes of this Act, be deemed to be under that age unless the contrary is proved.

Exemption.

24. (1) The provisions of this Act shall not extend to any relative within the fourth degree or legally constituted guardian of an infant who undertakes the nursing and maintenance of such infant or to hospitals, convalescent homes, or institutions established for the protection and care of infants and conducted in good faith for religious or charitable purposes, or to near friends acting without reward.

(2) Any person having undertaken without reward the care, custody, or control of any infant to whom this Act applies, who by reason of his *bona fides* character and circumstances can satisfy the magistrate of the district that there is no reasonable prospect of such infant while in his custody being neglected or illtreated, shall be entitled to receive a certificate from the magistrate exempting such infant while in his custody and the premises in which such infant is retained, from the provisions of section *twelve* of this Act.

The magistrate may in his discretion cancel any such certificate by giving notice of such cancellation to the person to whom such certificate has been granted.

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25. This Act may be cited as the Infant Life Protection Act, 1909 and shall take effect on the first day of January 1910.

Title and date
of taking
effect.

ACT No. 25 OF 1909.] [Came into operation 1st Sept., 1909

AN
ACT

**Act No. 25
of 1909.**

To Consolidate and Amend the Law regulating the Deeds Office and Mining Titles Registration Office and relating to the Registration of Deeds and Mining Titles.

(Assented to 7th July, 1909.)

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

PRELIMINARY.

1. The laws mentioned in the First Schedule to this Act shall be and are hereby repealed to the extent set forth in the second column of that Schedule.

Repeal of
laws.

2. In this Act, unless inconsistent with the context,—

Interpreta-
tion of terms.

“diagram” shall mean a diagram prepared by a person lawfully admitted to practise as a land surveyor, and approved by the Surveyor-General without publication; and “confirmed diagram” shall mean a diagram confirmed by the Surveyor-General after notice of confirmation has been published as prescribed by law;

“district” shall mean a magisterial district of this Colony;

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

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“local authority” shall include any body which by law is established and has the general control, care, and management of streets, roads, squares, and open public places within any defined area in this Colony;

“Master” shall mean the Master of the Supreme Court or any person lawfully acting in that capacity;

“mining district” shall have the meaning assigned to that term in and for the purposes of the Precious and Base Metals Act 1908 or any amendment thereof, and shall include any sub-division of a mining district;

“mining title” shall mean—

(a) all such rights as are included in the definition of “mining title” in the Precious and Base Metals Act 1908 or any amendment thereof;

(b) discoverers’ certificates and alluvial claim licenses held under the Precious Stones Ordinance 1903 or any amendment thereof and discoverers’ certificates held under the Precious and Base Metals Act 1908 or any amendment thereof;

(c) any such interest in a mine as is mentioned in Chapter V of the Precious Stones Ordinance 1903 and is held by the owner as therein described;

“notary public” shall mean a person admitted to practise as such by the Supreme Court of this Colony and entitled for the time being to practise as such;

“owner” shall mean, in relation to land, the person registered in the Deeds Office as the owner of the land;

“prospecting contract” shall mean a notarial deed by which the owner of land or the registered holder of mineral rights thereon grants the right to prospect and seek for any metal, mineral, mineral oil, or precious stone, together with the right to purchase either the freehold of or any right to metals, minerals, mineral oils, or precious stones on that land or the right to lease any such right;

- “regulation” shall mean a regulation made under Chapter III of this Act ;
- “stand” shall mean, when used in relation to a township, a portion of land in that township, held under freehold title ;
- “stand title” shall mean the license for any stand mentioned in Part II, Chapter X, of the Precious and Base Metals Act 1908 or any amendment thereof ;
- “street” “road” “thoroughfare” “sanitary passage” “square” or “open public place” shall mean and include the streets, roads, thoroughfares, sanitary passages, squares, and open public places shown on the general plans of townships filed in the Deeds Office and in the office of the Surveyor-General, and all land (other than erven, stands, or lots shown thereon) the control whereof is vested in a local authority or to which the registered owners of erven, stands, or lots in the township have a common right ;
- “surface rights” shall mean all such rights as are described in Part II, Chapter IX, of the Precious and Base Metals Act 1908, or any amendment thereof, whether the same depend upon a grant made under such Chapter or under Law No. 15 of 1898 or under a prior law, and shall include sites selected under section *sixty-nine* of the Precious Stones Ordinance 1903 or any amendment of that section ;
- “township” shall mean a township approved under the Townships Act 1907 or any amendment thereof, or proclaimed under that Act or any amendment thereof, or otherwise established by lawful authority, or any area of land registered in the Deeds Office as a township at the commencement of this Act ;
- “the Court” shall mean, in relation to the Deeds Office, the Supreme Court or any judge thereof sitting in Pretoria, and, in relation to the Mining Titles Office, shall include also the Witwatersrand High Court.

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Establishment of Deeds Office and Mining Titles Registration Office.

3. (1) There shall be at Pretoria an office for the registration of deeds, to be called the "Deeds Office".

(2) There shall be at Johannesburg an office (to be called the Mining Titles Office) for the registration of all mining titles and stand titles and of those other rights and documents the registration of which is in Chapter II of this Act provided for.

(3) Each such office shall be deemed a continuation of the "Deeds Office" or Mining Titles Registration Office (as the case may be) existing at the commencement of this Act.

(4) In each such office shall be carried out to completion all such matters as immediately prior to the commencement of this Act were uncompleted, but such uncompleted matters shall be completed as if this Act had not passed.

Appoint-
ments.

4. (1) The Governor shall appoint an officer to be styled the Registrar of Deeds to be in charge of the Deeds Office and shall further appoint an officer to be styled the Registrar of Mining Titles to be in charge of the Mining Titles Office.

(2) The Governor may appoint officers to be styled respectively the Assistant Registrar of Deeds and the Assistant Registrar of Mining Titles, each of whom shall, subject to any regulations in force for the administration of his office, have authority to do any act or thing which may be lawfully done by the Registrar of Deeds or the Registrar of Mining Titles, as the case may be.

(3) Every person holding at the commencement of this Act any such appointment as is described in this section shall be deemed to have been appointed under this section.

CHAPTER I.

DEEDS OFFICE.

Duties of the
Registrar of
Deeds.

5. The Registrar of Deeds shall be in charge of the Deeds Office and his duties shall, subject to the provisions of this Act and the regulations, be,—

(a) to take charge of and preserve all records which were records of the Deeds Office immediately prior to the commencement of this Act;

- (b) to register grants or original titles to immovable property issued by lawful authority ;
- (c) to certify, sign, and register deeds of transfer of immovable property and of any other property the transfer of which may be required by any law to be made before the Registrar of Deeds ;
- (d) to certify, sign, and register mortgage bonds, specially hypothecating any such property as is mentioned in paragraphs (b) and (c) and generally the person and property of the mortgagor ;
- (e) to register antenuptial contracts, *kinderbewijzen*, notarial bonds, and other notarial deeds having reference to persons or property in this Colony ;
- (f) to register cessions of registered bonds ;
- (g) to cancel or partially cancel any registered bond or deed or to release from the operation of any such bond the whole or any part of the property or any thing specially hypothecated or bound by such bond ;
- (h) to register all such grants, concessions, mynpachts, and documents as under any law or according to the practice and usage of the Colony are proper for registration in the Deeds Office ;
- (i) to register against any property registered in the Deeds Office any lease, real or personal servitude, or encumbrance, or personal right, contained in a deed of transfer or other duly registered deed, or authorized by an order of the Court ;
- (j) to register against any bond registered in the Deeds Office any notarial deed or deeds whereby the conditions of that bond or the rate of interest payable by reason thereof are varied ;
- (k) in the registration of any deed to make such endorsements on a registered title or a deed or document filed of record in the Deeds Office, as may be necessary to give effect to that registration ;
- (l) to keep a register of all interdicts and orders of court served upon him and affecting rights registered in the Deeds Office, and

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of all notices relating to estates furnished to him by the Master ;

(*m*) to keep such land, debt, and other registers as are necessary for duly performing any of the provisions of this Act, for carrying on an efficient system of registration, calculated to afford security of title, and for providing easy reference thereto ;

(*n*) generally to exercise all the powers and discharge all the duties as are by the law of this Colony or the general law of South Africa exercised or discharged by the Registrar of Deeds, and to carry out the objects and purposes of so much of this Act and the regulations as apply to the Deeds Office.

Registrar of Deeds to notify passing of transfers to resident magistrate.

6. Whenever a deed of grant or transfer, or any mortgage bond or any other deed whatever having reference to or affecting the ownership of land in any district, has been registered by the Registrar of Deeds, or the cancellation or cession of any such deed has been effected, he shall transmit written notice of the registration to the resident magistrate of that district, who shall thereupon make the necessary entry in the land register of the district. If any portion of a district has been detached and placed in charge of an assistant resident magistrate, the resident magistrate shall communicate to that assistant resident magistrate so much of that notice as appertains to the detached portion of the district. The assistant resident magistrate shall make the necessary entry in the land register of that detached portion.

AMALGAMATION OF TITLE.

Amalgamated title ; how obtained.

7. (1) The owner of two or more pieces of land contiguous to each other may obtain from the Registrar of Deeds a document, called a certificate of amalgamated title, in respect of the combined area of that land.

(2) A certificate of amalgamated title may be obtained in the following manner :—

The owner shall make written application therefor to the Registrar of Deeds accompanied by—

(*a*) the several deeds of grant or deeds of transfer or other title-deeds under which he holds and all documents appertaining to those deeds ; and

(b) a diagram in duplicate showing the aggregate extent of land which the applicant holds under separate titles and which he desires to have amalgamated and registered under one title; and

(c) where a diagram of any component part of that land can be produced, a diagram of that part:

Provided that if any such deed has been lost and no certified copy issued to take the place thereof has been produced, the Registrar of Deeds may, if satisfied that all necessary steps have been taken to obtain such certified copy and that there is no valid objection to the issue of such a copy, dispense with the production by the applicant of a certified copy of the deed.

8. A certificate of amalgamated title shall not be issued in respect of land situate in more than one district.

Restrictions against issue of certificate of amalgamated title.

9. Whenever the Registrar of Deeds issues a certificate of amalgamated title, he shall cause to be made on the deeds submitted, and on the duplicate originals thereof filed in the Deeds Office, all necessary endorsements, and in his registers, all necessary entries.

Endorsements and entries to be made by the Registrar of Deeds when certificate of amalgamated title is issued.

Those endorsements and entries shall show the amalgamation of the titles.

The Registrar of Deeds shall retain in his possession the deeds so submitted:

Provided that, if one of the pieces of land to be amalgamated is held under the same title-deed with another piece of land, the Registrar of Deeds shall suitably endorse that title-deed so as to show that the first-named piece of land is no longer held under that title-deed, and shall deliver back that title-deed to the owner.

10. (1) A certificate of amalgamated title may be issued notwithstanding that any or all of the pieces of land are hypothecated under a mortgage bond or mortgage bonds:

Duties of Registrar of Deeds where land to be amalgamated is hypothecated under mortgage bonds.

Provided that—

(a) the bond or bonds shall be produced to the Registrar of Deeds; and

(b) the written consent of the mortgagor, and of the legal holder or holders of such bond or bonds, to the issue of the certificate

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applied for shall be produced to the Registrar of Deeds and such consent shall state that it is given under this section; and

(c) the Registrar of Deeds endorses upon such bond or bonds that the area of land to be held under the amalgamated title or the portion thereof previously hypothecated (as the case may be) is under this section substituted for the area or areas previously hypothecated, and that such area or portion (as the case may be) is hypothecated as a first or subsequent mortgage (according to the circumstances) but an endorsement shall not be made in respect of a portion hypothecated unless a diagram of that portion be produced or that portion be indicated on the diagram attached to the certificate of amalgamated title; and

(d) the Registrar of Deeds shall make an entry of the substitution in his debt register; and

(e) the Registrar of Deeds shall endorse on the certificate of amalgamated title that the area held thereunder, or the portion thereof previously hypothecated, is hypothecated by such bond or bonds and shall further endorse where necessary, the order of preference of such bonds.

(2) From and after the completion of the entries and endorsements aforesaid the land held under the amalgamated title or the portions thereof previously hypothecated shall be deemed to be as fully and effectually hypothecated as if it were still held under the title-deeds mentioned in section *seven*.

Form, effect,
and contents
of certificate
of amalga-
mated title.

11. (1) A certificate of amalgamated title shall be, as nearly as possible, in the form set forth in the Second Schedule to this Act.

(2) A certificate of amalgamated title and the diagram thereto shall respectively take the place of the title-deeds under which the owner previously held the land mentioned therein and of the diagrams appertaining to those deeds; but no certificate of amalgamated title shall be deemed to confer upon the owner any greater or other right in respect of that land than he held or possessed under the said title-deeds and diagrams appertaining thereto.

(3) A certificate of amalgamated title shall state that the holder is the registered owner of the land described in the certificate and the description of the land shall be according to a diagram or confirmed diagram annexed to the certificate. That diagram shall include and indicate the several pieces of land to be held under the certificate.

(4) If a title to land held under quitrent (*leenings*) tenure and a title held under freehold (*eigendoms*) tenure are amalgamated the amalgamated title shall be under quitrent (*leenings*) or freehold (*eigendoms*) tenure according as the greater component part was quitrent (*leenings*) or freehold (*eigendoms*). If there be a further amalgamation, the amalgamated area shall be quitrent (*leenings*) or freehold (*eigendoms*) according as the greater extent of the original component parts of the area was held under quitrent (*leenings*) or freehold (*eigendoms*) tenure.

TOWNSHIPS.

12. As soon as any township shall have been approved under the Townships Act 1907 or any amendment thereof the owner of the land upon which the township is situate shall, in addition to the duties imposed upon him by the said Act or any amendment thereof, lodge with the Registrar of Deeds two copies of an approved general plan of the township showing the numbers assigned to the erven or lots therein and the Registrar of Deeds shall open a register of the township with a separate folio for each erf or lot and, as soon as the provisions of this section and of the Townships Act 1907 or any amendment thereof have been complied with by the owner, the erven or lots in that township shall for all purposes be deemed duly registered.

Duties of Registrar of Deeds on approval of townships.

13. Whenever it is sought to transfer or lease an erf, stand, or lot in a township, or a lot shown on an approved general plan duly registered which specifies the area thereof, it shall not be necessary to annex to the deed of transfer or lease a diagram of any such erf, stand, or lot, but as soon as it is first sought to transfer or lease a portion of any such erf, stand, or lot there shall, in addition to a diagram of that portion annexed to the transfer or lease of that

Transfer or leases of lots in townships allowed without diagram if approved general plan of township registered.

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portion, be filed in the Deeds Office a diagram of the whole erf, stand, or lot. The last-named diagram may be a copy, certified to by the Surveyor-General, of a portion of the general plan of the township.

When alteration or cancellation of general plan of townships or divided land permitted.

14. (1) Any general plan filed in the Deeds Office and Surveyor-General's office of a township, or of land divided into lots exceeding fifteen in number, may be altered or cancelled—

- (a) for the purpose of rectifying errors in survey; or
- (b) with the consent of the local authority having jurisdiction in the township or, as the case may be, in the area wherein the land so divided is situate, or, if there be no such local authority, with the consent of the Governor, who may be advised, as to the giving or withholding of such consent, by the Townships Board:

Provided that every alteration, which represents a new division of any portion of the area represented on the general plan, shall be approved by the Townships Board.

(2) Any such general plan may be totally or partially cancelled if the Registrar of Deeds and the Surveyor-General be satisfied that the owner of the land on which is situate the township or, as the case may be, of the land divided as aforesaid, has abandoned his intention to sell or lease all the erven, stands, or lots shown on that plan or on the part thereof sought to be cancelled, but no partial cancellation shall take place under this sub-section except upon an order of the Court unless there be produced to the Registrar of Deeds and the Surveyor-General the written consent of the owner of every erf, stand, or lot which has been transferred or the lease whereof has been registered and of the legal holder of a mortgage bond on every such erf, stand, or lot.

(3) When any cancellation or alteration of a general plan has been made under this section, the Registrar of Deeds shall amend his registers accordingly.

15. (1) The owner of two or more erven, stands, or lots contiguous to each other and forming a block which is not intersected by any street, road, or sanitary passage shown on the general plan may obtain a certificate of amalgamated title in respect of those erven, stands, or lots, the provisions of sections *seven to eleven* inclusive being applied for the purpose *mutatis mutandis* and so far as they are applicable.

(2) The holder of any such certificate of amalgamated title may divide into lots all or any portion of the land comprised therein, but the division shall be deemed for all purposes a new division of land for the purposes of sub-section (1) of the last preceding section.

16. Whenever any area has become or been included within a township all existing divisions of that area, except streets, roads, thoroughfares, sanitary passages or open public places, shall be entered in the Deeds Office in the township register, each upon a separate folio; but if any such existing division be at any time sub-divided and a general plan of the sub-division be filed in the Deeds Office, every sub-division, except streets, roads, thoroughfares, sanitary passages, and open public places, shown on that general plan shall be entered in the Deeds Office in the township register each upon a separate folio.

17. It shall be lawful, after the commencement of this Act, for the owner of any township to transfer or mortgage by one deed the whole of the land or the remainder thereof comprised in that township or an undivided share in or a divided portion of that land or the remainder thereof:

Provided that—

(a) the transfer or mortgage shall be in accordance with a diagram, to be annexed thereto if necessary, from which shall be excluded all erven, stands, or lots in the township or portion thereof affected which may have been already transferred;

(b) only such divided portion may be transferred or mortgaged as includes, in addition to erven, stands or lots shown on the general plan, streets, squares, open spaces, or public places, or portions thereof, appearing on that

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Amalgamated title of blocks of divided land and division of blocks held under such title.

Registration in townships register of divisions of land included in a township.

Transfer of township or portion thereof.

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general plan and the boundaries of which portion coincide with one or more of the division lines shown upon the general plan and do not intersect any of the erven, stands, or lots shown thereon ;

(c) the deed of transfer or mortgage shall state that the land described therein has been laid out as a township or is a portion of or share in land so laid out, and that such land remains subject to the provisions of the laws and regulations in force relating to the registration of townships or erven, stands, or lots therein, and also that such land is subject to the rights of the owners of erven, stands, or lots in the particular township affected with respect to streets, squares, public places or open spaces therein to which those owners may have individual rights or rights in common.

· TRANSFER OF LAND.

Conveyance of land in undivided shares to two or more persons by one and the same deed.

18. (1) From and after the commencement of this Act land may be conveyed in undivided shares to two or more persons by one and the same deed of grant or deed of transfer.

(2) If any person who is the joint owner under one deed of grant or deed of transfer desire to transfer a fraction of his undivided share, or to hypothecate, or lease, or encumber by servitude or otherwise, the whole or any fraction thereof, he shall obtain from the Registrar of Deeds a certificate of title in the form (as nearly as may be) set forth in the Third Schedule to this Act.

Every such certificate of title shall be issued, upon written application, by the Registrar of Deeds, and shall serve as the title of the said joint owner to the share of the land mentioned in the certificate.

(3) If the land be subject to a mortgage bond, lease, or other encumbrance, the certificate shall not be issued except upon production of that mortgage bond, lease, or the deed of encumbrance.

(4) When issuing the certificate the Registrar of Deeds shall endorse—

(a) upon the mortgage bond, lease, or deed of encumbrance that a certificate of title under this section has been substituted, so far as concerns the undivided share of the

applicant in the land, for the deed of grant or deed of transfer whereby he has hitherto held that share; and

(b) upon that deed of grant or deed of transfer that a certificate of title has been issued under this section to the applicant;

and thereupon, so far as concerns the said undivided share, the deed of grant or deed of transfer shall be deemed to be superseded, and the land held under the certificate shall be deemed to be as fully and effectually hypothecated, leased, or encumbered (as the case may be) as if it were still held under the deed of grant or deed of transfer described in sub-section (1).

19. (1) From and after the commencement of this Act farms, erven, stands, and freehold lots and portions of and shares in farms, erven, stands, and freehold lots, may be transferred from one owner, or from more than one owner if the properties be held in undivided shares, by one and the same deed of transfer to one person, or in undivided shares to more than one person, provided that all the land to be transferred be registered in the office in which the deed of transfer is lodged; provided further that, if stands registered in the office of the Rand Townships Registrar are included in such a deed, that deed shall be in triplicate, but such a triplicate shall not require to be stamped, nor shall any fees of office be required to be paid in respect of the registration of the triplicate.

Transfer of more than one farm, etc., by one and the same deed of transfer, subject to certain restrictions.

(2) If it be sought thereafter to transfer, hypothecate, lease, or encumber by servitude or otherwise any land transferred in accordance with sub-section (1) of this section, the provisions of sub-sections (2) (3) and (4) of the last preceding section shall *mutatis mutandis* apply.

(3) Where two or more portions of a farm, erf, stand, or lot are to be transferred by one and the same deed of transfer, those portions may, if contiguous, be shown as one figure on the diagram (if any) to be annexed to the transfer.

PARTITION OF LAND.

20. (1) When two or more owners of land in undivided shares desire to partition that land, the Registrar of Deeds may, if there be lodged with him a deed of partition executed by those owners and defining the portion

Issue of certificate of title in respect of share of land partitioned.

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to be held by each such owner in lieu of his undivided share and, where necessary, the rights and servitudes to which each portion is to be entitled or subject, issue a partition title (as nearly as may be in the form set forth in the Fourth Schedule to this Act), in accordance with diagram, for each defined portion.

(2) Every such partition title shall be deemed to be a conveyance of the land in respect of which it is issued.

Issue of certificate of title in respect of undivided shares of land.

21. (1) If any one or more owners of undivided shares in land desire to partition that land and take out title or titles to the portion or portions of that land equivalent to the share or shares held by him or them, the Registrar of Deeds may, upon the lodging with him of a deed of partition executed by all the joint owners of that land, and embodying where necessary the rights and servitudes to which each portion is to be entitled or subject, issue—

(a) to each owner desiring such title, a partition title in accordance with diagram and as nearly as may be in the form set forth in the Fourth Schedule to this Act; and simultaneously

(b) to the other owners, a certificate or certificates of title (as nearly as may be in the form set forth in the Fifth Schedule to this Act) to undivided shares of the remaining extent of that land.

(2) The partition title or certificate mentioned in sub-section (1) shall be deemed to be the title to the land in respect of which it is issued and there shall be embodied in it all servitudes to which the said portions or shares are subject and all rights to which those portions or shares are entitled.

Effect of certificates under the last two sections.

22. Every partition title or certificate issued under the last two preceding sections shall supersede the deed of title previously held in respect of the undivided share or shares by the persons in whose favour the partition title or certificate is issued.

Deeds of Hypothecation.

Conditions precedent to transfers of hypothecated property.

23. No transfer of land or cession of rights to immovable property or of any lease registrable in the Deeds Office, specially hypothecated under a mortgage bond, shall be passed until that mortgage bond has been duly cancelled or the land, rights,

or lease released from the operation of the bond by the consent of the registered holder thereof; but this section shall not apply if the land is transferred or the rights or lease are ceded—

- (i) in execution of the judgment of any competent court by the officer appointed by law or by that court;
- (ii) by the trustee of an insolvent estate or the liquidator of an insolvent company to which the land, rights, or lease belong;
- (iii) under the provisions of section *fifty* or *fifty-three* of this Act:

Provided that, whenever there is sought transfer of land or cession of rights to immovable property or of any lease registrable in the Deeds Office and that land, property, or lease is subject to a mortgage bond and simultaneously with that transfer or cession—

(a) the bond is cancelled and another bond is passed for the same amount or a lesser amount; or

(b) the land, property or lease is released from the operation of the bond and another bond is passed for the amount by which a reduction has been effected in the amount of the first-named bond or for a lesser amount,

and in each case the new bond is passed by the transferee, cessionary, or lessee in favour of the same person and upon the same conditions as the first-named bond, and upon the security of the said land, property, or lease, then every such new bond shall, notwithstanding anything contained in the law for the time being in force relating to stamp duties, be exempt from stamp duty, but there shall be chargeable any fees prescribed by regulation.

Certificates in lieu of Lost Titles.

24. (1) If a copy be required of any title-deed which has been lost or destroyed, the duplicate original whereof is not filed in the Deeds Office, the Registrar of Deeds may, subject to the provisions of this section, issue to the owner of that lost title-deed a certificate of registered title as nearly as may be in the form set forth in the Sixth Schedule to this Act.

Issue of certificate of registered title in lieu of lost title-deed of which no duplicate is filed in the Deeds Office.

(2) That certificate of registered title shall take the place of the lost or destroyed title deed, and

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shall be subject to all conditions, servitudes, or other encumbrances which according to the records of the Deeds Office were embodied in or endorsed upon the lost or destroyed title-deed.

(3) No such certificate shall be issued for a defined portion or share in a defined portion of any property except in accordance with the diagram of that portion prepared at the expense of the applicant.

(4) No such certificate shall be issued until notice of intention to issue the same has been published by the Registrar of Deeds in four consecutive ordinary issues of the *Gazette* and until that notice has been served by the applicant on the owner or owners of every adjoining farm, erf, stand, or lot (as the case may be), and unless a draft certificate with the diagram has been open for inspection at the Deeds Office for a period of two months after the date of the first publication of the said notice. During that period every person interested shall have an opportunity of objecting to the issue of the certificate.

(5) If any owner of an adjoining farm, erf, stand, or lot cannot be found, the said notice may be served upon the occupier of that farm, erf, stand or lot, or, if there be no such occupier, the notice may be affixed to the door of the principal dwelling-house or some other conspicuous place on that farm, erf, stand, or lot.

(6) If any objection be taken to the issue of the certificate, the objector shall, in the absence of any arrangement between the parties, apply to the Court, within one month after the last day upon which an objection may be lodged, for an order prohibiting the Registrar of Deeds from issuing the certificate, and the Court may make such order upon the application as it may think fit.

PROSPECTING CONTRACTS.

Register of
prospecting
contracts.

25. The Registrar of Deeds shall keep in the Deeds Office a register to be called the register of prospecting contracts in which he shall, subject to the provisions of this Act and the regulations, register all prospecting contracts which, being executed after the taking effect of Ordinance No. 11 of 1904, are tendered to him for registration.

26. (1) In registering a prospecting contract the Registrar of Deeds shall endorse a note of the contract upon the deed whereby the right to the minerals affected is held.

Mode of registering prospecting contracts.

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(2) If rights granted under a prospecting contract to the holder thereof are for a defined period with a right of renewal for any further period, registration of that contract shall be effective for that defined period only; but if the registered holder of the contract tender the same at the Deeds Office together with such affidavit as in sub-section (3) is described, the Registrar of Deeds shall note upon the contract and in the register of prospecting contracts that such holder claims to have exercised his right of renewal for the period mentioned in the affidavit and that note shall, as from the date thereof, be effective notice of the claim to all persons affected by the contract.

(3) The affidavit aforesaid shall be made by the registered holder of the prospecting contract or by his agent duly authorized in writing and shall state that the registered holder has, within the period specified in the contract, fulfilled all those conditions thereof which entitle him to a renewal of the contract and that he does thereby exercise his right to renew the same.

27. (1) The holder of any prospecting contract entered into before the taking effect of Ordinance No. 11 of 1904 may, whether or not such contract has been registered in the register of miscellaneous contracts (*diverse akten*), bring that contract under the provisions of this Act by tendering it for registration in the register of prospecting contracts and by lodging with the Registrar of Deeds—

Registration of prospecting contracts entered into before Ordinance No. 11 of 1904.

(a) an affidavit by the holder of the contract or his agent duly authorized in writing, stating that the holder has fulfilled all the terms and conditions of the contract and that the same is still of force and effect; provided that the grantor of the prospecting rights is, at the date when the contract is tendered for registration, the owner of the land or the registered holder of the mineral rights affected by the contract; or

(b) the written consent to the registration of the person (or his agent duly authorized

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in writing) who, at the date when the contract is tendered for registration, is the owner of the land or the registered holder of the mineral rights affected by the contract; or

(c) an order of the Court directing registration of the contract.

(2) The Registrar of Deeds may note upon any title-deed to land affected by a prospecting contract registered under Ordinance No. 11 of 1904, the registration of that contract; provided the written consent of the owner of that land be produced.

Registering of prospecting contracts containing certain ambiguities.

28. Whenever a deed purporting to be a prospecting contract contains any ambiguity which may be interpreted as constituting that deed a grant or lease of mineral rights, the Registrar of Deeds may register the deed as a prospecting contract provided a supplementary and explanatory deed, executed by all parties to the first-mentioned deed, or an affidavit made by all such parties explaining the purport and effect of the prospecting contract, be lodged at the Deeds Office; but nothing in this section contained shall be deemed to modify the provisions of the law for the time being in force relating to transfer duty.

Cancellation of notes of registration of prospecting contracts no longer in force.

29. Upon the written request of the grantor of a prospecting contract—

(a) the registration of which has, under section *twenty-six*, ceased to be of effect; or

(b) to the renewal of which no claim has been lodged, or, if lodged, has lapsed by effluxion of time,

the Registrar of Deeds may cancel the note of the registration and notes of that contract in the Deeds Office and upon the title of the grantor to the land or mineral rights affected by the contract.

For the purposes of this section the expression “grantor” shall include the person recognised for the time being in the Deeds Office as the holder of the mineral rights.

Certificate of reservation of mineral rights to transferor of land.

30. (1) Upon the written application to the Registrar of Deeds of any person who has transferred land subject to a reservation of mineral rights thereon, the Registrar of Deeds shall, if

there be produced to him the title-deed under which that land is held, and, where necessary, a diagram showing the area affected by the mineral rights so reserved, issue a certificate as nearly as may be in the form in the Seventh Schedule to this Act. It shall be the duty of the holder of that title-deed to produce the same upon the demand of the person who is making an application under this section.

(2) The said certificate shall—

- (a) set forth the mineral rights so reserved and any rights ancillary thereto;
- (b) be registrable against the title-deeds to the land in respect of which the mineral rights are so reserved;
- (c) be registered in the register of mineral contracts,

and, when so registered, shall constitute a good and valid title to the mineral rights so reserved.

31. Whenever it is expressly provided in a document registered in the Deeds Office being—

- (a) a lease of land or mineral rights; or
- (b) a prospecting contract; or
- (c) an instrument creating or evidencing a servitude;

Cancellation of registration of leases, prospecting contracts and servitudes in certain circumstances.

that it shall lapse upon failure to pay regularly any periodical amounts provided for therein, the Registrar of Deeds may, upon application, accompanied by an affidavit by the lessor or grantor (as the case may be) that the said periodical amounts have not been duly paid, cancel the registration of that lease, contract, or servitude:

Provided that—

- (1) where the address of the lessee or grantee is stated in the document, the Registrar of Deeds shall give notice to him by prepaid registered letter that cancellation of the registration of the document is sought on the ground of non-payment of periodical amounts provided for therein and that, unless written objection to the cancellation be lodged within one month if the address be in South Africa, or within three months if the address be elsewhere than in South Africa, the registration of the document will be cancelled;
- (2) where the address of the lessee or grantee is not stated in the document the Registrar

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of Deeds shall, at the expense of the applicant, give the notice aforesaid in the *Gazette* and in a newspaper circulating in the district of the lessee's or grantee's last known address, being an address to be stated upon affidavit by the lessor or grantor ;

(3) if any objection be lodged which, in the Registrar of Deeds' opinion, affords reasonable ground for refusing cancellation of the registration, he shall refuse cancellation until the objection is withdrawn or until he is otherwise ordered by the Court ;

(4) where a document mentioned in paragraph (a) or (c) of this section has lapsed by effluxion of time, the Registrar of Deeds may, on the written request of the grantor of the rights evidenced by that document or of his successor in title, cancel the registration of the document and the notes thereof on the grantor's title to the land or mineral rights (as the case may be).

Registration of notarial deeds relating to minerals executed under former laws.

32. (a) Every such notarial deed as is provided for in article *fourteen* of Law No. 7 of 1883 or article *sixteen* of Law No. 20 of 1895 ; and (b) every notarial lease which, if executed subsequent to the taking effect of the Transfer Duty Proclamation 1902, would be registrable against the title-deeds of the property affected by the lease,

registered in the register of *diverse akten* of the deeds office of the South African Republic, but not against the title-deeds of the property affected, shall, upon production to the Registrar of Deeds, be noted in the land register of that property and a note of that notarial deed or lease (as the case may be) shall be endorsed upon the titles to that property :

Provided that—

(1) there be lodged with the Registrar of Deeds a receipt for any transfer duty then payable under the laws aforesaid, or for duty to which the deed or lease is, at the commencement of this Act, liable under the law relating to transfer duty or stamp duty in force at such commencement ;

(2) there be produced to the Registrar of Deeds the written consent of the owner of the property affected by the deed or lease to the

endorsement on his title-deeds, together with those title-deeds or an order of the Court directing the endorsement to be made ;

(3) all regulations relating to leases of land or of mineral rights (as the case may be) have been complied with.

Whenever such an order of the Court as is mentioned in the second proviso to this section has been made, registration against the title-deed filed in the Deeds Office shall be deemed to be effective registration.

ANTENUPTIAL CONTRACTS.

33. (1) An antenuptial contract executed in this Colony shall not be registered in the Deeds Office unless it has been executed before a notary public. Registration of antenuptial contracts executed in this Colony.

(2) An antenuptial contract executed in this Colony before the commencement of this Act, shall, unless registered in the Deeds Office within six months after such commencement or within such further period as the Court may upon application allow, be of no force or effect as against creditors in insolvency.

(3) An antenuptial contract executed in this Colony after the commencement of this Act, shall, unless registered in the Deeds Office within one month after the date of its execution or within such period as the Court may upon application allow, be of no force or effect as against creditors in insolvency. It shall be the duty of the notary public before whom that antenuptial contract is executed to obtain registration thereof.

34. (1) An antenuptial contract executed outside this Colony may, whether or not it has been notorially executed, be registered in the Deeds Office if executed in accordance with the law and practice relating to antenuptial contracts of the country, colony, or territory in which it was executed, but in every such case the contract shall, together with a duplicate original or a copy thereof :— Registration of antenuptial contracts executed outside this Colony.

- (a) certified by the registrar of deeds (if any) of that country, colony, or territory ; or
- (b) certified by a notary public practising in this Colony ;

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be filed at the time of registration, and thereafter shall have in this Colony, as from the date of registration, the same force and effect as against creditors in insolvency as if it had been executed before a notary public in this Colony.

(2) An antenuptial contract executed outside this Colony and registrable in the Deeds Office in accordance with this section, shall be of no force and effect as against creditors in insolvency until it is registered in the Deeds Office.

CHAPTER II.

MINING TITLES OFFICE.

Duties of
Registrar of
Mining Titles.

35. The Registrar of Mining Titles shall be in charge of the Mining Titles Office and his duties shall, subject to the provisions of this Act and the regulations, be,—

(a) to take charge of, and preserve all records of title-deeds, documents, and diagrams of every kind relating to mining title or stand title which were, immediately prior to the commencement of this Act, records of the Mining Titles Registration Office ;

(b) to register all mining titles and stand titles issued in accordance with law, to certify, sign, and transfer, transfers or cessions or renewals thereof, and to take charge of and preserve all records of such titles and the deeds, documents, and diagrams of every kind incidental to the registration of such titles, transfers, or cessions ;

(c) to register all certificates of bezitrecht and water-rights granted under the Precious and Base Metals Act, 1908, or any amendment thereof, or under Law No. 15 of 1898 or a prior law, and register any transfer of such certificates or water-rights as well as transfers of *bewaarplaatsen* ;

(d) to register all surface rights ;

(e) to certify, sign, and register all mortgage bonds specially hypothecating any mining title or stand title or any lease thereof, or specially hypothecating water-rights or *bewaarplaatsen*, and to register any servitude or encumbrance contained in a deed of transfer of any mining

title or stand title or created by notarial deed or order of a court of law ;

(f) to register cessions of registered bonds ;

(g) to register against any bond registered in his office any notarial deed or deeds whereby the conditions of that bond or the rate of interest payable by reason thereof are varied ;

(h) to cancel or partially cancel any registered bond or registered deed (other than a deed of transfer) and to release from the operation of such bond the whole or any part of the property thereby specially hypothecated ;

(i) upon the registration of any document to make all such endorsements on the registered title or other document in his office as may be necessary to give effect to that registration ;

(j) to keep a register of all interdicts and orders of the Court served upon him and affecting the transfer of any title registered in his office, and of all notices relating to estates furnished to him by the Master ;

(k) to keep all such debt and other registers as may be necessary for the due performance by him of his duties ;

(l) to give immediate notice to the Registrar of Deeds of all renewals, transfers, leases, cessions of leases, and of all mortgages, cancellations of mortgage and other encumbrances of any mynpacht brief, or of any lease under the Base Metal Law Amendment Ordinance 1903, and like notice of any amendment made of errors in documents under the authority of paragraph (b) of section *forty-four* ;

(m) to give immediate notice to the Mining Commissioner of any mining district of all registrations effected in the office in relation to any mining title, stand title, certificate of bezitrecht, water-right, *bewaarpplaats*, or surface right in that district ;

(n) generally to carry out the objects and purposes of so much of this Act and the regulations as apply to the Mining Titles Office.

36. Every transfer of a mining title or stand title, every cession of a lease thereof, and every transfer of a water-right shall be accompanied by

Conditions of registration of mining or stand titles.

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such diagram or plan of the ground held under that title as is provided in the Precious and Base Metals Act, 1908, unless such a diagram or plan is, at the date of the transfer, already filed in the office.

Every transfer of a *bewaarplaats* shall also be accompanied by a diagram thereof, unless such a diagram is at the date of the transfer already filed in the office.

Transfer or
lease of
mining title
or stand title.

37. (1) From and after the commencement of this Act more than one mining title or stand title, or different kinds of mining titles or stand titles, may be transferred from one holder by one and the same deed of transfer, and notwithstanding that they may be situate on different farms or on different portions of the same farm or in different mining districts.

(2) If it be sought thereafter to transfer, hypothecate, lease, or otherwise encumber any mining title, or stand title, transferred in accordance with sub-section (1) of this section, the provisions of sub-sections (2) (3) and (4) of section *eighteen* shall *mutatis mutandis* apply.

Mining
Commissioner
to transmit to
Registrar of
Mining Titles
original
documents in
connection
with grants
of surface
rights.

38. (1) The Mining Commissioner of every mining district shall, as soon as any surface right has been granted under Part II of Chapter IX of the Precious and Base Metals Act 1908 and before issue to the grantee of the documents evidencing the grant, transmit to the Registrar of Mining Titles those documents together with all other documents, diagrams, or plans connected therewith, and thereupon the originals of all those documents and copies of the diagrams or plans shall be filed of record in the office.

(2) The Mining Commissioner shall further, as soon as he has made any reservation under the powers of the Precious and Base Metals Act 1908, transmit in writing to the Registrar of Mining Titles full information of the situation and nature of that reservation.

Diagrams not
approved by
Surveyor-
General to be
approved if
found correct.

39. (1) Whenever, in respect of mining title or stand title, a diagram not approved or confirmed by the Surveyor-General has, prior to the commencement of this Act, been filed in the office, that diagram, if found correct, shall be approved by the Surveyor-General without fee or charge.

(2) The Registrar of Mining Titles may at any time demand from a holder of title described in this section the production of his copy or such a diagram for the purposes of approval by the Surveyor-General and, until that demand has been complied with, no transfer or hypothecation of the title shall be registered in the office.

40. Whenever any act, matter, or thing may or is required to be performed, dealt with or done in the Mining Titles Office and no special provision exists in this Chapter or in Chapter III directing the manner in which that matter or thing is to be performed, dealt with, or done, the provisions of Chapter I shall *mutatis mutandis* and as far as possible be applied for the purpose of performing the act, dealing with the matter, or doing the thing.

Deeds Office law and practice to be followed in Mining Titles Office unless otherwise provided in this Chapter or in Chapter III.

CHAPTER III.

GENERAL.

41. In the interpretation of this Chapter—
 “each Registrar” shall mean the Registrar of Deeds and the Registrar of Mining Titles;
 “office” or “office concerned” shall mean the Deeds Office or Mining Titles Office as the context shall require;
 “the Registrar” or the “Registrar concerned” shall mean the Registrar of Deeds or the Registrar of Mining Titles, as the context shall require.

Interpretation of terms used in this Chapter.

42. Each Registrar shall permit any member of the public, upon payment of the prescribed fees, to inspect the public registers and other like records in his office and to obtain copies of or extracts from those registers or records and such other information concerning documents filed in his office as has been heretofore customarily obtainable.

Inspection of registers etc., and obtaining of information from registration offices.

43. Each Registrar shall exercise, in case of dispute, all the functions of a taxing officer of the Court in relation to the fees charged by notaries public or conveyancers for performing or carrying out the several acts, matters, or things which are required or permitted to be performed or

Registrars to be taxing officers.

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carried out by them under this Act or the regulations.

General
powers of
Registrar of
Deeds and
Registrar of
Mining Titles.

44. Each Registrar shall have power—

- (a) to require proof upon oath or solemn declaration or other supporting evidence of any fact necessary to be established in connection with any matter or thing sought to be carried out or effected in the office ;
- (b) whenever, in consequence of an error in any document whether in the name or in the description of any person or property therein mentioned, it is found necessary to amend that document, to amend the error subject to the production of the consent in writing of every person interested ; provided that if the error is common to two or more interdependent documents, both or all those documents shall be amended ; provided further that if any such interested person refuse to consent to the amendment, the same shall not be made, except upon the order of the Court ;
- (c) to issue copies of documents registered in his office in lieu of originals which have been lost, destroyed or so defaced or mutilated as to be illegible or unserviceable.

Government
and
municipal
taxes to be
paid before
registration.

45. (a) No deed of transfer, bond, or other document affecting the title to land shall be registered in the Deeds Office ; and

- (b) no deed of transfer, bond, or other document affecting a mining title or stand title and no cession of a lease thereof shall be registered in the Mining Titles Office,

unless accompanied by a receipt or certificate from a competent revenue officer that all taxes, duties, fees, and dues payable to the Government on the property to be transferred, hypothecated, or encumbered, have been paid, and, where any rates or charges are payable in respect of that property to a local authority and it is prescribed by law that no transfer or cession of property shall be passed before a registering officer till such rates and charges are paid, then unless accompanied also by a receipt or certificate from a competent municipal officer that those rates and charges also have been paid.

46. (1) No deed of transfer, deed of grant, or certificate of title registered in the Deeds Office shall, save as in Chapter I of this Act or in any other law is specially provided, be cancelled by the Registrar of Deeds except upon an order of the Court.

Transfers to be cancelled upon order of Court only.

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(2) No deed of transfer registered in the Mining Titles Office shall, save as in any other law is specially provided, be cancelled by the Registrar of Mining Titles except upon an order of the Court.

47. If any person, partnership, or company registered in the office concerned as the owner of immovable property, or as the holder of mineral rights, or as the holder of mining or stand title, or as a party to a mortgage bond, or as a mandant or mandatory in a power of attorney, changes his or its name, the Registrar concerned may, upon written application to him by that person, partnership, or company, and upon his being satisfied that there has been no change of person in law, alter that name in such deed, mortgage bond, or power of attorney, and in the office registers, so as to accord with the name which the person, partnership, or company then bears: Provided that where there are two or more interdependent documents, both or all such documents shall be amended.

Registration of changes of names of persons etc., registered as holding property or title.

48. (1) As often as it shall appear from the liquidation account of any insolvent estate and from the vouchers annexed thereto that a payment has been made to any creditor on account of a registered obligation of debt, the Master shall notify that payment to the Registrar concerned, who shall thereupon write off the same in the debt register of his office and also, if possible, on that obligation of debt.

Duties of Master to notify certain payments and make certain payments in connection with insolvent estates.

(2) The Master shall from time to time transmit to the Registrar concerned a return specifying—

(a) the name and address of every person who has obtained his discharge or rehabilitation after the sequestration of his estate under the law for the time being relating to insolvency; and

(b) the property and registered obligations of debt appearing in that person's schedules or in the liquidation account of his estate;

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and upon receipt of that return the Registrar concerned shall make an endorsement in the debt register of his office against all debts registered against such person prior to the sequestration of his estate. That endorsement shall effectually cancel the registered obligation of debt.

If possible, the Registrar shall make upon the obligation of debt like endorsements to those which he has made in the debt register.

(3) The provisions of sub-section (1) of this section shall apply *mutatis mutandis* to insolvent companies in the course of being wound up under the law for the time being in force relating to the winding up of companies.

Where hypothecation is for future debts that fact is to be expressly stated and a maximum amount fixed.

49. (1) No document of hypothecation executed at any time after the coming into operation of Proclamation (Transvaal) No. 10 of 1902 or hereafter, shall be of any force or effect for the purpose of giving preference or priority to the payment of any advances, debts, or demands made or accruing after the date of that document—

(a) unless it is expressly stipulated therein that it is intended to cover or secure future advances, debts, or demands, generally or some particular advance, debt, or demand to be in that document described; and

(b) unless a sum is fixed in that document as a sum beyond which future advances, debts, or demands shall not be deemed to be covered or secured by the hypothecation created by that document.

(2) In every document of hypothecation executed after the commencement of this Act the sum in respect of which preference or priority is to be given to future advances, debts, or demands, shall be stated, except in the case of a document as shall be executed under a power of attorney given before the commencement of this Act.

Transfer of land, etc., partitioned when same is hypothecated under a mortgage bond.

50. (1) If upon the partition of land or mining title or stand title or of any lease of mining title or stand title held in undivided shares, any share or shares of any owner or holder thereof be hypothecated under any mortgage bond, the Registrar concerned may, upon production to him—

(a) of every such bond; and

(b) of the written consent, purporting to be given under this section, of the mortgagor and of the legal holder of every such bond, pass transfer or issue a certificate to that owner or holder of any portion or share in any portion awarded to him on the partition, notwithstanding that the bond remains uncanceled: Provided that the Registrar concerned, when the transfer is passed or the certificate issued, shall—

(i) endorse on every such bond that the portion or share in a portion is under this section substituted for the share or shares previously held by the owner;

(ii) make an entry of substitution in the debt register;

(iii) endorse on the title-deed of the portion or share in a portion, that such portion or share is, in terms of this section, hypothecated by that bond or bonds.

(2) The provisions of sub-section (1) of this section shall *mutatis mutandis* apply when erven, stands, or lots in a township situate upon land held in undivided shares are partitioned between the owners of that land in such a manner that some of those erven, stands, or lots will be transferred to each of those owners, provided any of those shares were hypothecated prior to the establishment of that township; and in the application of sub-section (1) the Registrar concerned shall make like endorsements and entry to those therein described, but varied to meet the circumstances in this sub-section described.

(3) After the endorsements and entry have been completed, any portion or share in any portion of the land, mining title, stand title, or lease so transferred or registered shall be deemed to be hypothecated as fully and effectually as if every such portion or share in a portion had been originally hypothecated by the said bond.

REGISTRATION OF DERELICT PROPERTY.

51. (1) Any person who has by prescription, contract, or in any other manner acquired the lawful right to the ownership of immovable property, mining title, or stand title in this Colony registered in the name of any other person and who is unable to procure registration of the same in his name by reason of the death, mental

Mode of obtaining registration of title to derelict property etc., by persons entitled to such registration.

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incapacity, insolvency, or absence from the Colony of the person in whose name that property or title is registered, or of any person through or from whom the right has been mediately or immediately derived or owing to any other cause, may petition the Court for an order for the registration in his name of that property or title.

(2) Any person who acquires by expropriation the right to immovable property, mining title, or stand title and is entitled to obtain but cannot obtain registration thereof in the ordinary manner and in accordance with the usual forms, may petition the Court for an order for the registration in his name of that property or title.

(3) The Court may refer any such petition to the Registrar concerned for report and may grant a rule setting forth the description of the property or title (as the case may be) as mentioned in the petition, and calling upon all persons having or claiming to have any right to that property or title to appear and establish their claims thereto upon a day named in the rule or be for ever barred, and may direct the mode of service or publication of the rule.

(4) If any person appear to show cause against the rule the Court may, without requiring the issue of summons, order any question of fact to be tried upon pleadings or may make any order which will determine the matter in dispute in the most speedy and inexpensive manner.

(5) Upon consideration of the petition or upon receipt of the report of the Registrar concerned or upon the return of the rule aforesaid, the Court may, unless good cause be shown to the contrary, order the Registrar concerned to register the property, mining title, or stand title (as the case may be) in the name of the petitioner, subject to such terms and conditions as may be mentioned in the order.

(6) Subject to the terms of that order any conventional hypothecation, registered servitude, or encumbrance over the property, mining title, or stand title so registered which exists at the date of the registration shall attach to the said property or title precisely as it then exists, and all usual and proper entries and endorsements upon and in regard to any deed of transfer issued by the Registrar concerned in obedience to the order

shall be made in the appropriate register of the office concerned before that deed is delivered to the person entitled thereto.

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(7) Every registration made in favour of any person in pursuance of an order made under this section shall have the effect of vesting in that person the right to the immovable property, mining title, or stand title (as the case may be).

(8) That right shall or shall not respectively be liable to be annulled, set aside, limited, or affected upon every ground and on account of every and any cause, matter, or thing by reason of which the right would or would not have been liable to be annulled, set aside, limited, or affected if the property, mining title, or stand title had been regularly transferred to and in favour of the said person and in favour successively of every person through or from whom his right was derived or acquired.

52. When any order has been made under the last preceding section, the person in whose favour that order was made shall be liable to pay such taxes and duties in respect of the registration to be effected as he would have been liable to pay if the property, mining title, or stand title (as the case may be) had been transferred to him directly and in due form of law by the person in whose name it was last registered; and the registration directed shall not be suspended or stayed by reason of the non-payment of any tax, duty, or fine which the last-mentioned person or any one through or from whom he derived the right may have become liable for or incurred, unless the person in whose favour the order was made has by agreement specially bound himself to pay that tax, duty, or fine, or unless the delay in obtaining the registration in his name was due to the neglect or default of himself or his agent:

Liability of person in whose favour registration is effected under the last preceding section to pay taxes due on the property registered.

Provided that any person who has become liable for or incurred any such tax, duty, or fine shall be and continue personally liable for the same, notwithstanding that by the said order the property, mining title, or stand title (as the case may be) has been registered as directed in the order.

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Form of registration under the order of Court.

Surplus of proceeds to be paid to Master.

Alternative method of obtaining registration of title in cases other than property acquired by prescription or expropriation.

53. Upon production to the Registrar concerned of any order made under section *fifty-one* and of a certificate from the proper officer that any transfer duty payable has been paid, the Registrar concerned shall issue a deed in respect of the immovable property, mining title, or stand title (as the case may be) as nearly as possible in the form set forth in the Eighth Schedule to this Act, but subject to such conditions and stipulations as would have been contained in a deed passed in the usual form and to any other conditions directed by the order.

54. Any sum of money which the Court making any such order shall find to be due to any person by the person in whose favour the order is made shall, if the first-named person be absent from the Colony, or unknown, or a minor, be paid to the Master to the credit of the person entitled to that money or otherwise as the Court may order.

55. (1) Notwithstanding anything in sections *fifty-one* to *fifty-four* inclusive contained, any person who has acquired in any other manner than by prescription or expropriation the lawful right to the ownership of immovable property, or to mining title or stand title in this Colony registered in the name of any other person and who is unable to procure registration of the same in his name for the reasons set forth in sub-section (1) of section *fifty-one* may, in lieu of applying to the Court as in that section is provided, apply in writing to a standing commission consisting of the Registrar of Deeds, the Registrar of Mining Titles, and the Surveyor-General.

(2) That commission shall have all the powers, privileges, and jurisdiction mentioned in section *five* of the Commissions Powers Ordinance 1902.

(3) The Registrar of Deeds shall be chairman of the commission and all applications under this section shall be made to him.

(4) As soon as any such application is received a notice shall be published at the expense of the applicant in three successive ordinary issues of the *Gazette* and once in each of three successive weeks in one or more newspapers circulating in the district in which the property affected is situate.

(5) That notice shall call upon all persons who object to the grant of the application to lodge

their objections and the grounds thereof in writing with the chairman of the commission within two months from the date of the first publication of the notice or within such extended period as the commission may allow.

(6) Upon the expiry of the period or the extended period (if any) the commission shall enquire into the application and the objections (if any) and may order that the immovable property, mining title, or stand title (as the case may be) be transferred or ceded to the applicant subject to terms and conditions (if any) mentioned in the order. The commission may further make such order as to costs of or in connection with the application or objections (if any) as it deems just and that order may be enforced and the costs shall be taxed as if the order were an order of the Court as to costs.

(7) An appeal shall lie to the Supreme Court against any decision of the commission under this section, but notice of the appeal shall be given, within fourteen days from the date of the decision, to the other party, to the Registrar of the Supreme Court, and to the chairman of the commission.

The Registrar concerned shall not act upon the order of the commission in any case until the expiry of the time hereby allowed for noting an appeal, or if an appeal be noted, until the appeal has been determined in favour of the respondent or withdrawn.

(8) The provisions of sections *fifty-one to fifty-four* inclusive shall *mutatis mutandis* apply in respect of orders made under this section by the commission.

MISCELLANEOUS.

56. Any power of attorney executed within this Colony after the commencement of this Act which purports to give authority to pass, cede, amend, or cancel a deed, or to perform any act proper to be performed in the Deeds Office or Mining Titles Office shall be signed in the presence of a magistrate, justice of the peace, or a notary public, who shall attest the same and the date thereof by his signature and by his seal of office (if any).

Authentica-
tion of powers
of attorney
executed in
this Colony.

57. Whenever a copy of a document is required solely for the purpose of registering the cancellation

Cancellation
of registration
of lost docu-
ments.

**Act No. 25
of 1909.**

thereof, and all necessary steps have been taken to obtain a certified copy in lieu of the lost or destroyed original, the Registrar concerned may, if there is no valid objection to the issue of such a copy, dispense with the production thereof. .

Certificate
may be pre-
pared by a
conveyancer.

58. Every certificate the form of which is set forth in the Second to the Eighth Schedules inclusive to this Act may be prepared and tendered for registration by a conveyancer.

Power to
make
regulations.

*** 59.** (1) The Governor may from time to time make, alter, or rescind regulations (not inconsistent with this Act), in relation to the Deeds Office or to the Mining Titles Office, or both such offices, prescribing—

(a) the fees (if any) to be charged in respect of any act, matter, or thing required or permitted to be done ;

(b) the manner and form in which any document required to be registered or preserved of record, shall be prepared, executed, registered, or recorded ;

(c) the manner and form in which information which is required by law to be furnished to the office concerned, shall be recorded in that office, and the manner and form in which information which is permitted by law to be furnished to the public, shall be furnished, and, in the case of the Mining Titles Office, the manner and form in which information relating to mining title, stand title, water-rights, or surface rights shall be recorded by Mining Commissioners ;

(d) the manner and form in which the land registers to be kept by magistrates under Chapter I of this Act shall be entered up and kept ;

(e) the conditions under which copies of documents may be issued in lieu of original documents which have been lost, destroyed, defaced, or mutilated ;

(f) the manner and form in which consent shall be signified to the cancellation, cession, part payment, release, or amendment of documents, or change of order of ranking of bonds ;

(g) the powers and duties of the Registrar of Deeds or of the Registrar of Mining Titles and other persons employed in either office ;

and generally for efficiently carrying into effect the objects for which either office exists and the purposes of this Act.

**Act No. 25
of 1909.**

(2) All regulations made under the laws hereby repealed and in force at the commencement of this Act shall, so far as they apply to any matter dealt with under any Chapter of this Act and are not inconsistent therewith, be deemed to be regulations made under this Act.

(3) No regulation, other than is mentioned in sub-section (2), or any alteration or rescission of any regulation shall be of force and effect unless it has been published in draft for fourteen days in two ordinary issues of the *Gazette* at any time preceding the day upon which it is expressed to take effect.

(4) Every regulation made under sub-section (1) and every alteration or rescission of any regulation shall within seven days after it has taken effect be laid upon the tables of Parliament, if Parliament be then in session, or, if it be not then in session, within seven days after the commencement of its next ensuing session.

60. This Act may be cited for all purposes as the Registration of Deeds and Titles Act 1909 and shall come into operation on a date to be hereafter fixed by proclamation of the Governor in the *Gazette*.*

Title and date
of operation
of Act.

First Schedule.

Laws Repealed.	Extent of Repeal.
Deeds Proclamation 1902 [Proclamation (Transvaal) No. 10 of 1902]	The whole.
Deeds Proclamation Amendment Ordinance 1903 (Ordinance No. 65 of 1903)	The whole.
Registration of Prospecting Contracts Ordinance 1904 (Ordinance No. 11 of 1904)	The whole
Town Lands Amendment Ordinance 1905 (Ordinance No. 2 of 1905)	Section one.
Mining Titles Registration Act 1908 (Act No. 29 of 1908)	The whole, except sections one and sixteen.
Townships Amendment Act 1908 (Act No. 34 of 1908)	Sections fifty-seven and fifty-eight.

* See Proc. No. 61 (Admn.), 1909 (*Gazette*, 13th Aug., 1909, p. 686), putting the Act in operation, 1st Sept., 1909.

Act No. 25
of 1909.

Second Schedule.

CERTIFICATE OF AMALGAMATED TITLE.

KNOW ALL MEN WHOM IT MAY CONCERN

That,
having applied for the issue to him of a certificate of amalgamated title under section *seven* of the Registration of Deeds and Titles Act 1909 and it appearing that he is the registered owner of the land hereinafter described held under certain.....(here describe the deeds of grant or transfer under which the applicant holds).....

Now therefore, in pursuance of the provisions of the said Act, I, the Registrar of Deeds, do hereby certify that the said..... is registered as the owner of.....(describe the property)..... as will more fully appear from the annexed diagram subject to such conditions as are mentioned or referred to in the said..... (describe the deeds of grant or transfer).....And further subject to the following servitudes, hypothecations, leases, or other encumbrances (as the case may be).

And that by virtue of these presents the said....., his heirs, executors, administrators, and assigns now is and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the Registrar of Deeds, have subscribed to these presents and caused my seal of office to be affixed hereto.

Thus done and executed at the Office of the Registrar of Deeds, Pretoria, on this the.....day of.....in the year of our Lord, One thousand Nine hundred and.....

.....
Registrar of Deeds.

Registered in the register of.....kept at Pretoria, Book.....page.....on the above date.

NOTE.—When the certificate is issued under an order of the Court the necessary recital of the order is to be made.

Third Schedule.

CERTIFICATE OF TITLE.

I,....., Registrar of.....do hereby certify that under and by virtue of Deed of Transfer No..... dated the.....day of.....is the registered owner of.....(describe the property and all servitudes and encumbrances).....and that in substitution of such deed the said.....his heirs, executors, administrators, and assigns by virtue of these presents now is and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the Registrar of.....have subscribed to these presents and caused my seal of office to be affixed thereto.

Thus done and executed at the Office of the Registrar of.....
Pretoria this the..... day of.....in the year of
Johannesburg our Lord One thousand Nine hundred and.....

.....
Registrar of.....

Registered in the register of.....kept at Pretoria
Johannesburg Book....., page.....on the above date.

Fourth Schedule.

**Act No. 25
of 1909.**

PARTITION TITLE.

Whereas.....is under and by virtue of Deed of Transfer No.....dated the.....day of.....the registered owner of a.....share of and in the.....(here describe the property).....and whereas the said.....and the co-owners of the said property have entered into a deed of partition which has been filed in the Deeds Office.

Now therefore, I....., the Registrar, hereby certify that by virtue of these presents the said.....is the registered owner of.....(describe the property).....as will more fully appear from the annexed diagram framed by Surveyor.....on the.....day of.....subject to the following conditions, servitudes, and encumbrances, to wit:—

.....and that the said.....his heirs, executors, administrators, and assigns now is and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the Registrar of Deeds, have subscribed to these presents and caused my seal of office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds, Pretoria, on this the.....day of.....in the year of our Lord, One thousand Nine hundred and.....

.....
Registrar of Deeds.

Registered in the register of.....kept at Pretoria. Book....., page.....on the above date.

Fifth Schedule.

PARTITION TITLE.

Whereas.....is under and by virtue of Deed of Transfer No..... dated the.....day of.....the registered owner of a.....share of and in.....(here describe the property)..... and whereas the said.....and the co-owners of the said property have entered into a deed of partition which has been filed in the Deeds Office and whereas a portion or, portions of the aforesaid property have, in terms of the aforesaid deed of partition, been allotted to.....

Now therefore, I, the Registrar of Deeds, hereby certify that by virtue of these presents the said.....is the registered owner of an undivided.....share in the remaining extent.....(here describe the property).....subject to the following conditions, servitudes, and encumbrances, to wit:—

.....and that the said.....his heirs, executors, administrators, and assigns now are and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the Registrar of Deeds, have subscribed to these presents and have caused my seal of office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds, Pretoria, on the.....day of.....in the year of our Lord, One thousand Nine hundred and.....

.....
Registrar of Deeds.

Registered in the register of.....kept at Pretoria, Book....., page.....on the above date.

Act No. 25
of 1909.

Sixth Schedule.

CERTIFICATE OF REGISTERED TITLE.

(Under section *twenty-four* of the Registration of Deeds and Titles Act 1909.)

KNOW ALL MEN WHOM IT MAY CONCERN :

That.....
having applied for the issue to him of a certificate of registered title under section *twenty-four* of "The Registration of Deeds and Titles Act 1909" in lieu of deed of grant (or deed of transfer) (here describe the deed of grant or transfer under which the applicant holds) which has been lost or destroyed, and it appearing from the registers of the Deeds Office that he is the registered owner of the land hereinafter described ;

Now, therefore, in pursuance of the provisions of the said Act, I, the Registrar of Deeds, do hereby certify that the said.....
.....is the registered owner of (describe the property) as will more fully appear from the annexed diagram, subject to the following conditions, to wit :

.....
.....

And that by virtue of these presents the said.....
....., his heirs, executors, administrators, and assigns now is and henceforth shall be entitled thereto conformably to local custom, Government however reserving its rights.

In witness whereof I, the Registrar of Deeds, have subscribed to these presents and caused my Seal of Office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds, Pretoria, on this the.....day of.....in the year of Our Lord One Thousand Nine Hundred and.....

.....
Registrar of Deeds.

Registered in the Register of.....
kept at Pretoria, Book.....page.....on the above date.

Seventh Schedule.

[CERTIFICATE OF MINERAL RIGHTS.

Whereas.....
s the holder of the mineral rights in and upon.....(describe the property).....under and by virtue of deed of transfer (or certificate of registered or amalgamated title) No.....dated the.....day of.....which said property is now registered in the name of.....by.....

Now therefore, I, the Registrar of Deeds, hereby certify that the said.....is the registered holder of mineral rights in and upon the said property as will more fully appear from the annexed diagram framed by Surveyor.....on the.....day of.....subject to the following conditions
.....
and entitled to the following rights upon the said property.....

Given under my hand and seal of office this the.....day of.....19....

.....
Registrar of Deeds.

Registered in the Mineral Contracts Register on the above date.

Eighth Schedule.

**Act No. 25
of 1909.**

DEED OF TRANSFER.

No.....
19.....

KNOW ALL MEN WHOM IT MAY CONCERN :

That in obedience to an order of the Court under the provisions of section *fifty-three* of the Registration of Deeds and Titles Act 1909 :

I, the Registrar of.....do hereby cede and transfer in full and free property to and on behalf of.....his heirs, executors, administrators, and assigns, certain (here describe the property) subject to the following servitudes, leases, or other encumbrances (other than hypothecations) and that by virtue of these presents the said.....his heirs, executors, administrators, and assigns now is and henceforth shall be entitled thereto conformably to local custom, Government however reserving its rights.

In witness whereof I, the said Registrar, have subscribed to these presents and have caused my Seal of Office to be affixed hereto.

Thus done and executed at the Deeds Office, Pretoria on this the.....day of.....in the year of Our Lord One Thousand Nine Hundred and.....

Registrar of.....

Registered in the register of.....kept at Pretoria
Johannesburg
Book.....page.....on the above date.

ACT NO. 26 OF 1909.] [Came into operation 1st July, 1909.

AN
ACT

**Act No. 26
of 1909.**

**To amend the Fencing Act 1908 (Act No. 12 of 1908)
and Part II of Ordinance No. 38 of 1904.**

(Assented to 7th July, 1909.)

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

1. (1) Sub-section (1) of section *three* of the Fencing Act 1908 shall be and is hereby amended by the deletion from the second line thereof of the words " of the freehold ". Amendment of section *three* of Act No. 12 of 1908.

(2) Any advance made by the bank (as defined in that Act) prior to the coming into operation of this Act in respect of the fencing of land in this Colony held on quitrent (*leenings*) tenure, shall, notwithstanding anything in the said section contained, be deemed to have been lawfully made, provided the provisions of Chapter I of that Act were in other respects complied with.

**Act No. 26
of 1909.**

Extension of
Act No. 12
of 1908 to
municipal
lands.

Native owners
outside
locations to be
liable for
beneficial use,
repairs, etc.

Amendment
of section
twenty-two of
Act No. 12
of 1908.

Fencing of
land over
which grazing
servitude
exists at the
partial cost of
the holder of
that servi-
tude.

Amendment
of section
fourteen of
Ordinance
No. 38 of 1904

2. For the purposes of the said Act any area of land, other than erven, stands, or township lots registered in the name of any municipal council shall be deemed to be a holding, and that municipal council to be the owner of those lands.

3. For the purposes of section *seven* and Chapter II of the said Act the expression "owner" shall include also a native who is the owner of land which is not a native location or mission station.

4. Section *twenty-two* of the Fencing Act 1908 shall be and is hereby amended by the deletion therefrom of the words "sub-sections (1) and (3) of".

5. An owner of land shall have the right to fence or assist in fencing that land, notwithstanding that it is subject to a servitude of grazing in favour of the owner of other land, provided reasonable access be allowed to the live stock of the servitude holder by means of suitable gates; provided further that the holder of such servitude shall be liable for a share of the cost of erecting, maintaining, and repairing such fence proportionate to his interest in the grazing rights over the land, and, if any dispute arises as to the value of that interest, it shall be determined by the Minister of Agriculture.

6. (1) Anything to the contrary notwithstanding in section *fourteen* of Ordinance No. 38 of 1904, the owner (as in that section defined) shall only be liable to repay to the Government one half the total cost to the Government of or incidental to the erection of the fence mentioned in that section; but the provisions of that section relative to yearly instalments and the rate of interest payable therewith shall apply in respect of the repayment of the half cost mentioned in this section of this Act.

(2) Whenever in any other section of that Ordinance or any amendment thereof, any reference is made to the amount due or paid under section *fourteen* thereof, that reference shall, from and after the coming into operation of this Act, be deemed to be a reference to the amount due from an owner under this section of this Act.

(3) The Colonial Treasurer may refund to each owner who has repaid the amount due under the said section *fourteen*, or to his legal representatives, the amount so repaid less half the total cost to the Government of and incidental to the erection of the fence mentioned in that section,

with the interest at the rate mentioned in that section on that half cost. That owner or his representative shall make a proportionate refund of the amount which has been paid to him by any lessee under section *sixteen* of the said Ordinance.

(4) Any reference in sections *seventeen* and *eighteen* of the said Ordinance to the said section *fourteen* shall be deemed to be a reference to that section as amended by this section, and the Colonial Treasurer may make like refunds to the persons who have repaid the whole amounts due by them under the said sections *seventeen* and *eighteen* of the said Ordinance, as he may make under sub-section (3) of this section.

7. Section *twenty-one* of Ordinance No. 38 of 1904 shall be and is hereby repealed.

Repeal of section *twenty-one* of Ordinance No. 38 of 1904.

8. (1) In any case where Crown Land, or land subject to the provisions of section LII of the Transvaal Constitution Letters Patent 1906 has been heretofore, or may hereafter be, fenced under the provisions of Ordinance No. 38 of 1904, and has been leased under the Crown Land Disposal Ordinance 1903, the Settlers Ordinance 1902 or the Land Settlement Act 1907, the lessee shall, in addition to the rent payable under his lease, pay interest at the rate of three per cent. per annum upon one-half the total cost to the Government of and incidental to the erection of the fence.

Special provisions relating to repayment by settlers of cost of erecting fences under Ordinance No. 38 of 1904.

(2) If a lease under the Crown Land Disposal Ordinance 1903 contains a right of conditional purchase of the land, then, upon that right being exercised, the conditional purchaser shall, as from the date of the exercise of that right, become liable for, and shall pay to the Government from time to time as prescribed by Ordinance No. 38 of 1904 the instalments due to the Government under the said Ordinance together with interest at the rate aforesaid. Any instalments which may be payable under this section during the period of the lease shall be added to the purchase price of the land, and any instalments of purchase price which will become due under those terms of the lease relating to conditional purchase of the land shall be increased accordingly.

(3) The provisions of sub-section (2) shall *mutatis mutandis* be applied when a lease of land under the Settlers Ordinance 1902, or the Land Settlement Act 1907 is converted into a license and shall further apply to land held under license in accordance with those laws.

**Act No. 26
of 1909.**

(4) Whenever the interest of a licensee of land held under such license terminates under section *forty* of the Settlers Ordinance 1902 or any amendment thereof the instalments paid by him under this section in respect of fencing but not the interest on those instalments, shall be repaid to the said licensee.

Title and date
of operation
of Act.

9. This Act may be cited for all purposes as the Fencing Laws Amendment Act 1909 and shall come into operation on the first day of July 1909.

ACT NO. 27 OF 1909.] [Came into operation 16th July, 1909.

**Act No. 27
of 1909.**

AN

ACT

**To amend the Master and Servants Law 1880 (Law
No. 13 of 1880).**

(Assented to 7th July, 1909.)

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

Amendment
of article *two*
of Law No. 13
of 1880 as to
definitions of
"servant"
and "master"
for purposes
of such law.

1. The expression "other remuneration" when used in the definitions of "master" and "servant" in Law No. 13 of 1880 shall, for the purpose of those definitions, include a right of the person employed, to occupy and cultivate land of the employer, other than for a direct money-rent or share of produce.

Title and date
of operation
of Act.

2. This Act may be cited for all purposes as the Master and Servants Law Amendment Act 1909, shall come into operation on the date of its first publication as an Act in the *Gazette*, and shall be read as one with Law No. 13 of 1880.*

ACT No. 28 OF 1909.]

[Came into operation as from
1st July, 1909. **Act No. 28
of 1909.**]

AN

ACT**To amend the Law relating to the Payment of Duty
upon the Estates of Deceased Persons.***(Assented to 7th July, 1909.)*

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

PRELIMINARY.

1. Law No. 15 of 1899 shall be and is hereby repealed together with the provisions of any other law which may be repugnant to or inconsistent with the provisions of this Act. Repeal of laws.

2. In this Act and in any regulations made thereunder, unless inconsistent with the context— Interpreta-
tion of terms.

“company” shall mean any company incorporated or registered under the law for the time being of this Colony relating to the incorporation or registration of companies, and shall include also a company which, though not so incorporated or registered, carries on business in this Colony ;

“debenture” shall include debenture stock ;

“duty” shall mean the duty payable under and in accordance with this Act ;

“executor” shall mean a person to whom letters of administration have been granted by the Master, for or in respect of the estate of a deceased person, under the law for the time being relating to the administration of estates of deceased persons, and shall include a person acting or authorized to act under letters of administration granted in a foreign country but signed and sealed by the Master under the law aforesaid ;

“liquidation account” shall mean the account rendered, under the law for the time being relating to the administration of estates of deceased persons, by an executor to the Master of the administration and distribution of the estate of which he is executor ;

“Master” shall mean the Master of the Supreme Court or any person lawfully acting in that capacity ;

Act No. 28
of 1909.

“prescribed” shall mean prescribed by the Treasurer or by regulation made under this Act ;

“share” shall mean a share in the share capital of a company, and shall include stock into which any portion of the share capital has been divided ;

“Treasurer” shall mean the Colonial Treasurer or any person for the time being lawfully acting in that capacity.

CHAPTER I.

GENERAL PROVISIONS AS TO ESTATE DUTY.

Payment of estate duty to Treasurer by executor of net value of estates of deceased persons.

3. (1) Whenever any person shall die on or after the first day of July 1909, within or outside this Colony, there shall be payable to the Treasurer upon the net value of that person's estate, duty in accordance with the scale set forth in the Schedule to this Act, save as is otherwise provided in Chapter II of this Act.

(2) The duty shall be paid by the executor of that person, save as is otherwise provided in section *eight* or in Chapter II of this Act.

(3) Duty shall also be payable in respect of any property or interest in property which was held by any such person, at the time of his death, upon a condition that it would, when that death occurred, pass to some other person.

What shall be deemed estate of a deceased person for the purposes of this Act

4. For the purposes of this Act the estate of a deceased person shall include—

(a) all property in this Colony of whatsoever description belonging to that person, whether movable or immovable, and any interest in such property, whether expectant or contingent, held by him at his death ;

(b) any such property given by or passing from the deceased person as a *donatio mortis causa* ;

(c) any such property passing under any disposition made by the deceased person and purporting to operate as a *donatio inter vivos*, unless the disposition was made at least one year before his death.

(d) any such property passing under any disposition or by reason of any act of the deceased person which was intended to operate at or after his death, or has the effect of so operating ;

(e) any such property which, by any act or disposition of the deceased person, was so transferred, vested, or arranged that his

ownership or beneficial interest therein or in any part thereof passed or accrued by survivorship upon his death ;

(f) any such property which has passed to any one within one year prior to the death of the deceased person for the purpose of dividing the same, after the death of the deceased person, amongst his heirs or any of them ;

(g) any limited interest in such property, whether or not such interest was or is to be determined by the death ;

but the estate of a deceased person shall not, for the purposes of this Act, include the interest of the survivor of two spouses who were married in community of property.

5. The net value of the estate of a deceased person shall be ascertained by deducting—

How net value of an estate ascertained.

(a) the debts and liabilities of the deceased person incurred *bona fide* and included in the liquidation account, except a liability for any property described in paragraphs (b) and (c) of section *four* ;

(b) the funeral expenses arising out of the death ;

(c) all costs and expenses of and incidental to the administration of the estate ;

6. (1) Every liquidation account shall provide for the payment of duty on the estate in respect of which the account purports to have been framed.

Liquidation accounts to provide for duty.

(2) An executor shall, upon lodging a liquidation account with the Master, pay the duty in respect thereof, and the Master shall not file a liquidation account in his office until he is satisfied that the duty is paid.

(3) Duty shall be assessable by reference to the liquidation account and shall be levied at the rate set forth in the Schedule to this Act upon the net value of all the assets included in that and in any preceding account, an allowance being made for any duty previously paid.

7. Before delivering or transferring any property of the deceased to any heir or legatee the executor shall deduct therefrom, or recover from such heir or legatee, the duty payable in respect thereof.

Recovery of duty from executor out of property under his control.

8. Duty in respect of such property as is described in sub-section (3) of section *three* shall be paid within twelve months after the death of the deceased to the Treasurer by the person to whom the property passes on the death, and the duty

Recovery of duty payable in respect of limited interests in property.

**Act No. 28
of 1909.**

Reference of
questions of
valuation to
the Treasurer.

shall be payable out of that property, which may be declared executable by any court of competent jurisdiction.

9. (1) As soon as any liquidation account has been lodged with the Master in accordance with the law for the time being relating to the administration of the estates of deceased persons, he shall transmit a copy of that account to the Treasurer. For the purposes of this section it shall be the duty of the executor to lodge with the Master at least two copies of the liquidation account, anything to the contrary in such law notwithstanding.

(2) The Treasurer shall cause every liquidation account transmitted to him to be examined and, if he has no objection to raise as to the valuation of the property included therein, that valuation shall be accepted for the purpose of assessing duty upon that property.

(3) If the Treasurer has any such objection, he shall notify the same to the Master who shall require the executor to amend the valuation to meet the Treasurer's objections. A valuation amended by the executor to meet the Treasurer's objections shall be accepted for the purpose of assessing duty upon the property, but if an executor fail, within a time prescribed, to amend the valuation to the satisfaction of the Treasurer, the Treasurer shall assess the amount of duty payable, subject to the rights given to the executor under section *sixteen*.

(4) Anything to the contrary in this section contained notwithstanding—

(a) the price actually realized for property *bona fide* sold in the course of the administration of the estate shall be deemed to be its value ;

(b) the value of shares, debentures, and any property for which there are market prices or prevailing rates of value, shall be in accordance with those prices or rates, if the same are ascertainable by or to the satisfaction of the Treasurer ;

(c) where a limited interest in any property passes, the value of that interest only shall be reckoned ;

(d) if a policy of insurance of the life of a deceased person has been ceded by the deceased to or in favour of his wife or child or children, the value of that policy shall be its surrender value immediately prior to the death of the deceased.

CHAPTER II.

Act No. 28
of 1909.SPECIAL PROVISIONS RELATING TO DUTY UPON
SHARES AND DEBENTURES.

10. (1) Shares and debentures in a company shall, for the purposes of this Act, be deemed to be property in this Colony, notwithstanding that the deceased holder of those shares or debentures was resident or domiciled outside the Colony at the date of his death.

Obligation on companies to collect duty payable upon estates of deceased shareholders and debenture holders of company.

(2) Every company shall, as soon as there shall come to its knowledge the death of any holder of its shares or debentures who died outside this Colony, transmit to the Treasurer a written statement showing the shares or debentures in that company held by the deceased at the date of his death, and the true value thereof, and that company shall within twelve months after the death of the deceased pay duty on those shares or debentures at the rate provided by this Chapter.

(3) Whenever the company shall satisfy the Treasurer, by production of an affidavit or solemn declaration of the deceased's legal representative or otherwise, that the whole estate of the deceased (including the shares or debentures aforesaid) in this Colony did not at his death exceed in the aggregate ten thousand pounds sterling, the duty payable upon those shares or debentures shall be two per cent. of the value thereof. If, after payment of duty on such shares or debentures, the executor of any foreign estate shall lodge with the Treasurer satisfactory evidence that the net value of the estate in this Colony was of a less value than two thousand pounds, the Treasurer shall refund the duty upon the value of any shares or debentures which may have been so paid.

(4) Whenever a company cannot so satisfy the Treasurer, or if the value of the whole of the estate of the deceased in this Colony exceeds ten thousand pounds at the time of his death, duty shall be paid by the company, at the rate applicable to the value of the deceased's estate in this Colony, in accordance with the Schedule to this Act.

In order that the amount of duty may be assessed, the legal representative of the deceased may render to the Treasurer an account, verified by oath, of the whole of the deceased's estate in

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this Colony. If no such account be rendered, or an account with which the Treasurer is not satisfied be rendered, he shall assess the amount of duty payable and duty shall be paid on the amount assessed by him, subject to the rights given under section *sixteen*. In such an account no debts or obligations of the deceased shall be deducted except those which are due from his estate in this Colony.

(5) Until payment is made by the company of the duty or satisfactory security has been lodged with the Treasurer for payment thereof, the company shall not permit the transfer in its registers, whether those registers be kept within or outside this Colony, of any shares or debentures registered in the name of a deceased person at the date of his death, except in the case of shares or debentures in respect of which the Treasurer has certified his satisfaction that, though still registered in the name of the deceased at that date, they had been *bona fide* sold or disposed of by him.

(6) Nothing in this section contained shall be deemed to impose any obligation on a company in respect of share warrants or debenture warrants issued to bearer.

Special arrangements with foreign companies whose proportion of business transacted in this Colony is inappreciable in proportion to entire business.

11. (1) If any company whose registered office is outside this Colony satisfies the Treasurer that the larger proportion of its business is transacted or carried on outside this Colony and produces satisfactory evidence to him as to the proportion of its business which is transacted or carried on in this Colony, the Treasurer may from time to time fix a percentage representing, for a period named by him, the proportion of the business carried on or transacted by that company in this Colony. During that period the total amount of duty payable on shares and debentures in that company shall be reduced *pro rata* to correspond with the proportion of the company's business which is carried on in this Colony.

(2) If the Treasurer is satisfied that an inappreciable proportion of the company's business, or only a branch thereof is, or merely matters incidental thereto are, carried on in this Colony, he may, by certificate under his hand, exempt the company for such time as he may think fit from the obligations of this Chapter; but nothing in this sub-section contained shall be construed as exempting any other person liable for duty from the liability to pay the same or interest or penalties due in respect thereof.

12. (1) Every company which has paid duty under this Chapter shall have the right to recover the amount thereof from the estate which would otherwise have been liable for payment of the duty, and with interest at the rate of six per cent. per annum if the amount of duty paid by the company be not repaid within one month after its payment by the company.

Remedies of company against person who would otherwise have been liable for payment of duty.

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(2) That amount and interest may be recovered—

(a) by action in any competent court; or

(b) by way of set off against any moneys due to the estate liable for the duty, whether as dividends or bonus upon shares, or interest upon debentures, or otherwise;

and every such company shall have a lien for the said amount and interest upon the shares or debentures in respect of which the duty was paid.

(3) Any receipt or certificate given by the Treasurer for duty paid by a company in respect of its shares or debentures shall be conclusive evidence in all courts and places of the payment by the company of the amount mentioned in that certificate or receipt.

(4) If any company make default in paying to the Treasurer any duty which, under this Chapter, it is liable to pay, it shall be liable to pay interest on the amount unpaid at the rate of twelve per cent. per annum together with any costs which the Treasurer may have incurred in recovering that amount from any other person.

13. (1) Every company shall, within three months after the coming into operation of this Act, transmit to the Treasurer a return showing the names and addresses of the persons who, according to its registers, were, on the thirtieth day of June 1909, shareholders or debenture holders of the company.

Company to transmit to Treasurer certain returns.

(2) Every company shall, before the thirty-first day of July 1910, and before that day in every year thereafter, transmit to the Treasurer a return showing the names and addresses of persons who, according to its registers, have, by reason of death, ceased to be shareholders or debenture holders of the company since the date when the last return was transmitted under this section.

14. In the event of any default by a company in complying with any requirement of this Chapter every director, manager, or other authorized representative of the company in this

Officers of company liable to penalties for default by company.

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of 1909.

Colony shall be liable to a penalty of one pound for every day during which the default continues, without prejudice to any right of the Treasurer to recover any amount from the company under any other section.

CHAPTER III.

MISCELLANEOUS.

Power to
make
regulations.

15. (1) The Governor-in-Council may from time to time make, alter, or rescind regulations for the better carrying out of the objects and purposes of this Act and in particular for the valuation of usufructuary or other limited interests in property.

(2) All such regulations and any alteration or rescission thereof shall be of force and effect on publication in the *Gazette*.

(3) All such regulations and any alteration or rescission thereof shall be laid on the tables of Parliament within seven days after such publication if Parliament be then in session, or, if it be not then in session, within seven days after the commencement of its next ensuing session.

Arbitration.

16. (1) Any person aggrieved by any decision or requirement of the Treasurer or the Master under this Act may demand that the matter be submitted to and decided by arbitrators in manner provided by the Arbitration Ordinance 1904, and such arbitrators may decide all questions of fact necessary for determining the proper amount of duty (if any) payable.

(2) The reasonable expenses of such arbitration shall, if the amount on which the duty is payable, as decided by the arbitrators, exceeds one-third* the valuation made by the executor, be paid by him, and shall be added to and be recoverable as part of the duty, but otherwise such expenses shall be borne and paid by the Treasurer.

General provisions as to
recovery of
duty.

17. (1) All duty, interest, penalties, and any sum due to the Treasurer under this Act shall be a debt due to His Majesty in his Colonial Government and may be recovered by action in any competent court, notwithstanding that any other method of recovery is provided by this Act.

(2) Any such action shall be taken in the name of the Treasurer and may be taken against any person liable notwithstanding that the obligation to pay the amount of duty is imposed on any other person by this Act.

Penalties.

18. (1) Any person who makes or causes to be made, or aids or abets in making, or incites any

* The word "by" appears to have been inadvertently omitted immediately before the word "one-third."

person to make, any fraudulent or false statement or representation, with intent that payment of duty or portion of duty be evaded by himself or any other person, shall be liable on conviction to a fine not exceeding five hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding two years, or to both such fine and imprisonment.

(2) Any person who—

(a) makes default in rendering within the time prescribed any account or statement which such person is required to render ;

(b) makes default in complying, within the time prescribed, with any requirement of this Act for which no specific penalty is provided ;

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

19. (1) Books, pictures, manuscripts, objects of curiosity, art, or antiquity, or similar objects bequeathed or donated to any public museum or institution in this Colony for preservation and not for sale or disposal, and property bequeathed or donated to any university or educational or public institution in this Colony, or exclusively for uses deemed by the Treasurer to be public, charitable, or religious uses in this Colony, shall be exempt from duty, provided that the objects bequeathed or donated and the terms of the bequest or donation be specifically stated. Exemptions from duty.

(2) Duty shall not be chargeable in respect of any estate if the deceased has, within five years immediately prior to his death, donated, or has by his will, bequeathed, not less than twenty-five per cent. of the net value of his estate at the time of his death exclusively for uses deemed by the Treasurer, after the deceased's death, to be public uses in this Colony.

(3) Duty shall not be chargeable in respect of any pension granted under Ordinance No. 30 of 1906, Act No. 19 of 1908, or Act No. 20 of 1908, or any amendment of those laws, to the widow or child of any person.

20. Whenever duty is assessed upon property mentioned in paragraphs (c) and (f) of section four and in the circumstances described in those paragraphs transfer duty was, in accordance with law, paid, the amount of that duty shall be deducted from the duty payable under this Act in respect of that property. Remission of duty.

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of 1909.**

Application of provisions of this Act to recovery of duty payable under Law No. 15 of 1899.

21. The provisions of this Act may be applied by the Treasurer for the purpose of recovering any estate duty payable under Law No. 15 of 1899 and unpaid at the date of the coming into operation of this Act, but nothing in this section contained shall be construed as increasing the amount of duty payable under that law and unpaid at that date.

Title and date of operation of Act.

22. This Act may be cited for all purposes as the Estate Duty Act 1909 and shall come into operation as from the first day of July 1909.

Schedule.

Where the net value of the Estate	Duty shall be at the rate undermentioned.
Does not exceed £2,000 Exceeds £2,000, does not exceed £3,000	Exempt. One and a quarter per cent.
Exceeds £3,000, does not exceed £5,000 Exceeds £5,000, does not exceed £10,000 Exceeds £10,000, does not exceed £20,000 Exceeds £20,000, does not exceed £40,000 Exceeds £40,000, does not exceed £70,000 Exceeds £70,000, does not exceed £100,000 Exceeds £100,000, does not exceed £150,000 Exceeds £150,000, does not exceed £250,000 Exceeds £250,000	Two per cent. Three per cent. Four per cent. Five per cent. Six per cent. Seven per cent. Eight per cent. Nine per cent. Ten per cent.

ACT NO. 29 OF 1909.] [Came into operation 16th July, 1909.

**Act No. 29
of 1909.**AN
ACT

To amend Act No. 32 of 1908.

(Assented to 7th July, 1909.)

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

Principal law defined.

1. In this Act "principal law" shall mean Act No. 32 of 1908.

Amendment of section four of principal law.

2. Section *four* of the principal law shall be and is hereby so amended as to include all shops in which any business (other than a business mentioned in section *six* of or in the Schedule to the principal law) is conducted within the area of jurisdiction of the Witbank

Health Committee constituted under Proclamation No. 20 (Administration) 1906 and within a distance of five miles from the nearest boundary of such area.

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of 1909.**

3. (1) Section *six* of the principal law shall be and is hereby amended by the omission therefrom of the word "or" after the words "fresh milk" and by the insertion after the word "flowers" of the words "fruit or vegetables".

Amendment of section *six* and partial repeal of Schedule of principal law.

(2) The Schedule to the principal law in so far as it relates to fruiterers and vegetablemongers shall be and is hereby repealed.

4. Section *eleven* of the principal law shall be and is hereby amended by the insertion after the word "*five*" of the words "or during Sunday".

Amendment of section *eleven* of principal law.

5. Notwithstanding anything contained in this Act, the principal law or any other law, it shall not be lawful for any shop to be open between the hours of twelve o'clock midnight and six o'clock in the morning.

Restriction on opening hours.

6. Notwithstanding anything contained in this Act, the principal law or any other law, it shall be lawful for the holder of a butcher's license to keep open his butcher's shop within the municipality of Barberton on Sunday mornings between the hours of seven and nine o'clock.

Butchers in Barberton may keep open during certain hours.

7. Any penalties provided for a contravention of the principal law, may be imposed for a contravention of that law as amended by this Act.

Penalties.

8. This Act may be cited for all purposes as the Shop Hours Amendment Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

Title and date of operation of Act.

ACT No. 30 OF 1909.] [Came into operation 16th July, 1909.

AN
ACT

**Act No. 30
of 1909.**

To amend the Townships Amendment Act 1908.

(Assented to 7th July, 1909.)

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

* The Act was first published in the *Gazette* on the 16th July, 1909.
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**Act No. 30
of 1909.**

Repeal of section *four* of Act No. 34 of 1908 and substitution of new provision.

1. Section *four* of the Townships Amendment Act 1908 (hereinafter referred to as the "Amendment Act") shall be and is hereby repealed and the following new section shall be substituted therefor :—

" 4. (1) Notwithstanding anything to the contrary in any law every township or subdivision of land into lots within fields or public diggings proclaimed under Law No. 15 of 1898 or any prior law relating to precious metals, shall be deemed to be a lawfully established township if—

" (a) the laying out thereof was effected by the Government; or

" (b) a general plan of such a township or subdivision of land into lots has been confirmed or approved by the Surveyor-General; or

" (c) transfers or leases, transfers or cessions of leases or any other documents proper for registration under any laws or regulations heretofore in force have been registered since the sixth day of June 1902, whether such registration has taken place in the Deeds Office or the Registration of Mining Rights Office or the Offices of the District Registrars or Mining Commissioners.

" (2) Notwithstanding any law or practice heretofore in force or prevailing, every registration of any document described in paragraph (c) of sub-section (1) shall be deemed to be as lawful and valid as if the township or subdivision of land into lots had been specifically approved by the Governor or by the Government of the South African Republic."

Extension of definition of semi-Government township to certain townships legalised or proclaimed under Ordinance No. V (Private) 1904.

2. The expression "semi-Government township" when used in Chapters II and III of the Amendment Act, shall, in addition to the townships described in the definition of semi-Government township in section *eight* thereof, include the townships of Germiston, Georgetown, Germiston North, Germiston East, and Germiston West, legalised or proclaimed under Ordinance No. V (Private) of 1904.

Amendment of sub-section (3) of section *twenty* of Act No. 34 of 1908.

3. Sub-section (3) of section *twenty* of the Amendment Act shall be and is hereby amended by the addition of the following words at the end thereof :—

"or within such further period as the registering officer may allow, not being a

“longer period than one year after the
“thirtieth day of June, 1909”.

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of 1909.**

4. Section *thirty-one* of the Amendment Act shall be and is hereby amended by the addition to the end of that section of the following words:—

Amendment of section *thirty-one* of Act No. 34 of 1908.

“If any such instalment be not paid upon the
“date when the same is due, the provisions
“of sub-section (3) of section *nine* shall apply
“as if the instalment were stand license
“money”.

5. (1) The registering officer mentioned in section *thirty-two* of the Amendment Act shall cause the ground comprising Stands Nos. 1148 to 1150, inclusive, together with so much of Locatie Street as may be necessary, to be surveyed into stands of suitable size and shape, and thereafter, having caused a valuation to be made of each such stand by a sworn appraiser, may sell under such an agreement of purchase as is described in the said section any of the new stands so created to any person who has been in occupation of any building thereon for a period of not less than five years. Every such agreement of purchase shall be concluded within three months after notice of the valuation of this land has been given by the said registering officer to the occupant thereof or to the purchaser of the building thereon.

Amendment of section *thirty-two* of Act No. 34 of 1908.

The provisions of the second paragraph of section *thirty-three* of the Amendment Act shall apply in respect of the removal of buildings from the stand by a person who has not entered into any such agreement of purchase, the period of six months in that section mentioned being reckoned from the date of a notice by the registering officer to that person of the result of the survey aforesaid.

(2) The said registering officer may, in his discretion, if satisfied that such an occupant as is mentioned in the said section *thirty-two* or in this section purchased the building erected on the stand, permit that occupant to purchase the stand upon the terms mentioned in the said section *thirty-two*, notwithstanding that he has been in occupation of the stand for a shorter period than five years.

6. (1) Section *forty-five* of the Amendment Act shall be and is hereby amended by the deletion of the word “therein” after “*bewaarplaatsen*” in the twentieth line of that section and the substitution for the word so deleted of the words “in the areas described in sub-sections (1) and (3).”

Amendment of section *forty-five* of Act No. 34 of 1908.

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of 1909.**

(2) Any person claiming to be the holder of a brickmaker's residential stand in the area known as the New Brickfields described in that section, may, if he satisfy the Mining Commissioner that he is the lawful holder of that stand, be entered in the Mining Commissioner's registers as the registered holder of that stand.

Amendment
of section
forty-seven of
Act No. 34 of
1908.

7. (1) Section *forty-seven* of the Amendment Act shall be and is hereby amended :—

“(a) by the deletion therefrom of the words
“the regulations promulgated by resolution
“of the First Volksraad No. 188, dated the
“seventeenth day of May, 1892, subject also
“to such other regulations not in conflict
“therewith’ and by the substitution therefor
of the words ‘such regulations’ ”;

(b) by the addition to the conditions set forth in the said section of the following new condition :—

“(4) The persons holding licenses for brick-making sites and *bewaarpplaatsen* shall pay to the Mining Commissioner within a period which the Governor shall, by the said regulations prescribe, all arrears of moneys due up to the date of the taking effect of the regulations ; in default of such payment within the time so prescribed, all the right and title to the said brickmaking sites and *bewaarpplaatsen* shall lapse and they shall be dealt with in accordance with the said regulations. The periods of five and ten years respectively mentioned in conditions (1) and (2) shall be reckoned from the date of the taking effect of the said regulations.”

(2) The persons holding licenses to the said brickmaking sites and *bewaarpplaatsen* shall, for the purpose of procuring the registration thereof into their names, make application to the Mining Commissioner, who shall deal with such applications and shall, when necessary, apply thereto the provisions *mutatis mutandis* of section *forty-five* ; provided that no such application may be considered by the Mining Commissioner unless the same shall have been lodged in his office prior to the thirty-first day of March, 1910.

Amendment
of section
fifty of Act
No. 34 of
1908.

8. “Twelve months” shall be substituted for the period of six months mentioned in section *fifty* of the Amendment Act.

9. Section *fifty-five* of the Amendment Act shall be and is hereby amended by the deletion from sub-section (9) thereof of all words after the words "respective districts" to the end of that sub-section and by the addition to the said section of the following new sub-section :—

Amendment of section *fifty-five* of Act No. 34 of 1908.

Act No. 30 of 1909.

"(11) After payment has been made of all
 "sums due from the holder of a stand
 "or lot in respect of the conversion
 "thereof to freehold title, no transfer,
 "mortgage, or encumbrance whatsoever
 "shall be effected of that stand or lot
 "in the Mining Commissioner's Office;
 "provided that this sub-section shall
 "not apply to stands or lots in town-
 "ships which fall under the provisions
 "of section *sixty-nine* until the general
 "plans of those townships have been
 "approved or confirmed."

10. Section *sixty* of the Amendment Act shall be and is hereby amended :—

Amendment of section *sixty* of Act No. 34 of 1908.

(a) by the deletion from sub-section (1) thereof of the words "from *voorkeurrecht* or leasehold";

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

"Such certificate or grant shall only be issued
 "upon compliance by the registered
 "holder with the requirements of this
 "Act and upon surrender by him to the
 "Rand Townships Registrar or Registrar
 "of Deeds (as the case may be) of the
 "transfer, lease, receipt or other docu-
 "ment by virtue of which he holds the
 "stand or lot, or if the original of that
 "transfer, lease, receipt, or other docu-
 "ment has been lost, then upon sur-
 "render of a duly certified copy thereof
 "issued to take the place of such
 "original; provided that if no such
 "transfer, lease, receipt or other docu-
 "ment can be produced or no duly
 "certified copy thereof issued, a certifi-
 "cate by the Mining Commissioner or
 "registering officer that the person
 "claiming the freehold title is the regis-
 "tered holder of the stand or lot shall
 "be accepted in place of such transfer,
 "lease, receipt, or other document of
 "title."

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(c) by the deletion of sub-section (5) thereof and the substitution therefor of the following new sub-section—

“ Upon the registration of a certificate or grant
“ of freehold title, the transfer, lease,
“ receipt or other document of title by
“ virtue by which the stand or lot is held
“ shall lapse and the Rand Townships
“ Registrar or Registrar of Deeds (as the
“ case may be) shall immediately upon
“ such registration being effected notify
“ the Mining Commissioner of the district
“ in which the stand or lot is situate, of
“ such registration.”

Appointment
of Assistant
Rand
Townships
Registrar.

11. The Governor may appoint an officer to be styled the Assistant Rand Townships Registrar, who shall, subject to any regulations in force for the administration of the Rand Township Registration Office, have authority to do any act or thing which may be lawfully done by the Rand Townships Registrar.

Power to
alter
Schedules to
Act No. 34 of
1908.

12. The Governor may from time to time by proclamation in the *Gazette* alter any of the forms set forth in the Third to the Twelfth Schedules inclusive of the Amendment Act; provided the alteration be for the better carrying out of the objects and purposes of that Act or any amendment thereof and be not inconsistent therewith. Any form so altered shall be as valid as if it had been set forth as a Schedule to the Amendment Act.

Title and date
of operation
of Act.

13. This Act may be cited for all purposes as the Townships Further Amendment Act 1909 and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

ACT NO. 31 OF 1909.] [Came into operation 1st Jan., 1910.

Act No. 31
of 1909.

AN
ACT

To consolidate and amend the Law relating to the
Incorporation, Registration, and Winding-up of
Companies and other Associations.

(Assented to 7th July, 1909.)

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

PRELIMINARY.

Repeal of
laws.

1. The laws and resolutions mentioned in the First Schedule to this Act shall be and are hereby

* The Act was first published in the *Gazette* on the 16th July, 1909.

repealed to the extent set forth in the third column of that Schedule, together with so much of any other law as is repugnant to or inconsistent with the provisions of this Act.

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of 1909.

2. In this Act unless inconsistent with the context— Interpreta-
tion of terms.

“articles” shall mean the articles of association of a company as originally framed, or as altered by special resolution, and shall include, so far as they apply to a company, the regulations set forth in the Fourth Schedule to this Act;

“books or papers” and “books and papers” shall include accounts, deeds, writings, and other documents;

“commencement of this Act” shall mean the date on which this Act came into operation;

“company” shall mean a limited or unlimited company which is incorporated and registered under Chapter I of this Act and shall include every company to which, by Chapter VI, this Act is expressed to apply;

“debenture” shall include debenture stock;

“director” shall include any person occupying the position of director or alternate director of a company, by whatever name he may be called;

“existing company” shall mean a company formed and registered under the Limited Liability Companies Laws and appearing at the commencement of this Act in the books of the Registrar’s office as still so registered;

“extraordinary resolution” shall mean a resolution passed at a general meeting of a company in accordance with the provisions of sub-section (1) of section *sixty-seven*;

“foreign company” shall mean a company or other association of persons which has for its objects the acquisition of gain by the company or association, or by the individual members thereof, and is registered or incorporated in a foreign country under the laws of that country;

“foreign country” shall mean any state, country, colony, or territory, other than this Colony, whether the same is or is not

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- a British Possession or British Protectorate ;
- “ Governor ” shall mean the officer for the time being administering the government of this Colony, acting by and with the advice of the Executive Council thereof ;
- “ imprisonment ” shall mean imprisonment with or without hard labour, as any competent court which passes sentence may determine ;
- “ limited company ” shall mean a company having the liability of its members limited by the memorandum of association to the amount (if any) unpaid on the shares respectively held by them ;
- “ Limited Liability Companies Laws ” shall mean Law No. 5 of 1874 as amended, extended, or modified by the following laws, namely :—So much of the First Volksraad Resolution No. 58 of 1890 as confirms Executive Council Resolution No. 786 of 1889 ; Law No. 1 of 1891 ; Executive Council Resolution No. 897 of 1892 passed in pursuance of First Volksraad Resolution No. 1331 of 1892 ; Second Volksraad Resolution No. 856 of 1893 embodying and adopting an Executive Council Resolution noted and accepted by First Volksraad Resolution No. 1219 of 1893 ; Law No. 1 of 1894 ; and Ordinance No. 30 of 1904 ;
- “ Master ” shall mean the Master of the Supreme Court or any person lawfully acting in that capacity ;
- “ memorandum ” shall mean the memorandum of association of a company, as originally framed or as altered in pursuance of the provisions of this Act ;
- “ Minister ” shall mean the Attorney-General or any other member of the Executive Council to whom is assigned from time to time by the Governor the ministerial responsibility for the office of the Registrar of Companies ;
- “ prescribed fee ” shall mean the fee mentioned in the Second Schedule to this Act, or in that Schedule as altered under the powers of this Act, as the fee payable in respect of any particular matter ;

“prescribed form” shall mean a form set forth in the Third Schedule to this Act or any form added to or altered in that Schedule under the powers of this Act;

“private company” shall mean a company which by its articles—

(a) restricts the right to transfer its shares; and

(b) limits the number of its members (exclusive of persons who are in the employ of the company) to a number not exceeding fifty; and

(c) prohibits any invitation to the public to subscribe for any of its shares or debentures;

where two or more persons hold one or more shares in a company jointly, they shall be deemed for the purposes of paragraph (b) of this definition to be one member;

“prospectus” shall mean any prospectus, notice, circular, or advertisement, inviting the public to subscribe for or purchase any of the shares or debentures of a company, or any direct or indirect invitation to the public to so subscribe or purchase;

“Registrar” shall mean the Registrar of Companies, or any person lawfully acting in that capacity;

“share” shall mean a share in the share capital of a company, and shall include stock, except where a distinction between stock and shares is expressed or implied;

“special resolution” shall mean a resolution passed at a general meeting of a company in manner provided by sub-section (2) of section *sixty-seven*;

“Table A” shall mean the table of regulations set forth in the Fourth Schedule to this Act;

“the Court” shall mean the Supreme Court or any judge thereof, and whenever a matter in relation to which this expression is used is within the jurisdiction of the Witwatersrand High Court or a Circuit Court, shall include any of those courts;

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of 1909.**Division
of Act.

“unlimited company” shall mean a company which has no limit on the liability of its members.

3. This Act is divided into eight chapters relating to the following matters respectively:—
 Chapter I—Constitution and Incorporation.
 Chapter II—Distribution and Reduction of Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.
 Chapter III—Management and Administration.
 Chapter IV—Winding-up.
 Chapter V—Foreign Companies.
 Chapter VI—Application of Act.
 Chapter VII—Winding-up of Unregistered Companies.
 Chapter VIII—Miscellaneous Provisions.

CHAPTER I.

CONSTITUTION AND INCORPORATION.

PROHIBITION OF LARGE PARTNERSHIPS.

Prohibition
of trading
associations or
partnerships
exceeding
twenty
members.

4. (1) From and after the commencement of this Act no company, association, syndicate, or partnership consisting of more than twenty persons shall be formed in this Colony for the purpose of carrying on any business that has for its object the acquisition of gain by the company, association, syndicate, or partnership, or by the individual members thereof, unless it is registered as a company under this Act, or is formed in pursuance of some other law of this Colony, or of Letters Patent, or Royal Charter.

MEMORANDUM OF ASSOCIATION.

Mode of
forming
company.

5. Any seven or more persons (or, where the company to be formed will be a private company, any two or more persons) associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability (that is to say), either—

- (i) a company having the liability of its members limited by the memorandum to

the amount (if any) unpaid on the shares respectively held by them; or
(ii) a company not having any limit on the liability of its members.

6. In the case of a limited company,—

Memorandum of association of company limited by shares.

- (1) The memorandum shall state—
- (i) the name of the company, with “Limited” as the last word in its name;
 - (ii) the place in this Colony in which the registered office of the company is to be situate;
 - (iii) the objects of the company;
 - (iv) that the liability of the members is limited;
 - (v) the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount.

(2) No subscriber of the memorandum may take less than one share.

(3) Each subscriber shall write opposite to his name the number of shares he takes.

7. In the case of an unlimited company,—

Memorandum of unlimited company.

- (1) The memorandum shall state—
- (i) the name of the company;
 - (ii) the place in this Colony in which the registered office of the company is to be situate;
 - (iii) the objects of the company.

(2) If the company has a share capital—

- (i) no subscriber of the memorandum may take less than one share;
- (ii) each subscriber shall write opposite to his name the number of shares he takes.

8. The memorandum shall be signed by each subscriber in the presence of at least one witness who shall attest the signature, and shall, in attesting, state his occupation and address.

Signature of memorandum of association.

9. A company may not alter the conditions contained in its memorandum except in the cases, and in the mode, and to the extent for which express provision is made in this Act.

Restriction on alteration of memorandum of association.

10. (1) A company may not be registered by a name identical with that by which a company in existence is already registered, or so nearly resembling that name as to be calculated

Name of company and change of name.

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to deceive, except where the company in existence is in the course of being dissolved and signifies its consent in such manner as the Registrar requires.

(2) A company may not be registered by a name calculated to cause annoyance or offence to any person or by a name suggestive of blasphemy or indecency.

(3) A company may not, without the consent of the Governor, be registered by a name which includes the words "Imperial", "Royal", "Crown", "Empire", "Government", or any other word which imports or suggests that it enjoys the patronage of His Majesty, or of the Governor, or of the Imperial or Colonial Government, but nothing in this sub-section contained shall be construed as preventing the name held by an existing company at the commencement of this Act from being registered as the name of that company.

(4) If a company, through inadvertence or otherwise, is registered in conflict with the provisions of sub-section (1) or sub-section (2) or sub-section (3) the company may, in the circumstances described in sub-section (1), with the sanction of the Registrar, change its name, and shall, in the circumstances described in sub-section (2) or sub-section (3), change its name.

(5) Any company may, by special resolution and with the approval in writing of the Minister change its name.

(6) Where a company changes its name, the Registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case.

(7) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

Alteration of
objects of
company.

11. (1) Subject to the provisions of this section a company may, by special resolution, alter the provisions of its memorandum with

respect to the objects of the company, so far as may be required to enable it—

- (a) to carry on its business more economically or more efficiently; or
- (b) to attain its main purpose by new or improved means; or
- (c) to enlarge or change the local area of its operations; or
- (d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or
- (e) to restrict or abandon any of the objects specified in the memorandum.

(2) The alteration shall not take effect until and except in so far as it is confirmed on petition by the Court.

(3) Before confirming the alteration the Court shall be satisfied—

- (a) that sufficient notice has been given to every mortgagee and to every holder of debentures of the company, and to any person or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and
- (b) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court:

Provided that the Court may, in the case of any person or class of persons, for special reasons, dispense with the notice required by this section.

(4) The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper.

(5) The Court shall, in exercising its discretion under this section, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members;

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and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement: Provided that no part of the capital of the company may be expended in any such purchase.

(6) A certified copy of the order confirming the alteration, together with a copy of the memorandum as altered, shall within fifteen days from the date of the order, be delivered by the company to the Registrar, and he shall register the same, and shall certify the registration under his hand, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum so altered shall be the memorandum of the company.

The Court may by order at any time extend the time for the delivery of documents to the Registrar under this section for such period as the Court may think proper.

(7) If a company makes default in delivering to the Registrar any document required by this section to be delivered to him, the company shall be liable to a fine not exceeding ten pounds for every day during which it is in default.

ARTICLES OF ASSOCIATION.

Registration
of articles of
association.

12. (1) There may, in the case of a limited company, and there shall in the case of an unlimited company, be registered with the memorandum, articles of association prescribing regulations for the company.

(2) Articles of association may adopt all or any of the regulations contained in Table A.

(3) If an unlimited company has a share capital, the articles shall state the amount of share capital with which the company proposes to be registered.

(4) If an unlimited company has not a share capital, the articles shall state the number of members with which the company proposes to be registered.

Application of
Table A.

13. In the case of a limited company registered after the commencement of this Act, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations in Table A, those regulations

shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

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14. Articles shall—

(a) be divided into paragraphs numbered consecutively;

(b) be signed by each subscriber of the memorandum in the presence of at least one witness, who shall attest the signature, and shall, in attesting, state his occupation and address.

Form and signature of articles.

15. Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles; and any alteration or addition so made shall be as valid as if originally contained in the articles, and be subject in like manner to alteration by special resolution.

Alteration of articles by special resolution.

GENERAL PROVISIONS.

16. (1) The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by each member, and contained covenants on the part of each member, his heirs and legal representatives, to observe all the provisions of the memorandum and of the articles, subject to the provisions of this Act.

Effect of memorandum and articles.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

17. The memorandum and the articles (if any) together with a copy thereof certified by a Notary Public, or by two directors on oath, as a true copy, shall be transmitted or delivered to the Registrar. Upon payment to him of the prescribed fees the Registrar shall, if the memorandum and the articles (if any) are in accordance with this Act or any amendment thereof, register the same by filing the certified copy, and shall return to the company the original memorandum and articles (if any) with the date of registration endorsed thereon.

Registration of memorandum and articles.

18. (1) Upon the registration of the memorandum of a company the Registrar shall certify

Effect of registration.

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under his hand that the company is incorporated, and, in the case of a limited company, that the company is limited.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

Conclusive-
ness of
certificate of
incorporation.

19. (1) A certificate of incorporation given by the Registrar in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto, have been complied with, and that the association is a company authorized to be registered and duly registered under this Act.

(2) An affidavit or other solemn declaration made by an attorney of the Supreme Court engaged in the formation of a company, or by a person named in the articles as a director or secretary of the company, of compliance with all or any of the said requirements shall be produced to the Registrar, who may accept such affidavit or declaration as sufficient evidence of compliance.

Copies of
memorandum
and articles
to be given to
members.

20. (1) Every company shall send to every member, at his request, on payment of two shillings and sixpence or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any) or shall afford to every member or to his duly authorized agent adequate facilities for making a copy of the memorandum and of the articles (if any).

(2) If a company makes default in complying with the requirements of this section, it shall be liable for each offence to a fine not exceeding one pound.

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21. (1) Where it is proved to the satisfaction of the Minister that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity, or any other useful object, and intends to apply its profits (if any), or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Minister may, by license under his hand direct that the association be registered with limited liability, without the addition of the word "Limited" to its name, and the association may be registered accordingly.

Special provisions as to associations formed for purpose not of gain.

(2) A license by the Minister under this section may be granted on such conditions and subject to such regulations as he may think fit, and those conditions and regulations shall be binding upon the association, and shall, if the Minister so direct, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall upon registration enjoy all the privileges of limited companies and be subject to all their obligations, except those of using the word "Limited" as any part of its name, and of publishing its name, and of sending lists of its members, directors, and managers to the Registrar.

(4) A license under this section may at any time be revoked by the Minister, and upon revocation the Registrar shall enter the word "Limited" at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section :

Provided that before a license is so revoked the Minister shall give to the association notice in writing of his intention, and shall afford the association an opportunity of being heard in opposition to the revocation.

(5) Notwithstanding the repeal by this Act of the Societies and Associations Incorporation Ordinance 1903, the provisions of the said Ordinance shall continue to apply to every society or association which has been registered thereunder: Provided that any such society or association may, on complying with the provisions of this Chapter, become registered as a company.

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CHAPTER II.

DISTRIBUTION AND REDUCTION OF
SHARE CAPITAL, REGISTRATION OF
UNLIMITED COMPANY AS LIMITED,
AND UNLIMITED LIABILITY OF DI-
RECTORS.

DISTRIBUTION OF SHARE CAPITAL.

Nature of
shares.

22. (1) The shares or other interest of any member in a company shall be movable property, transferable in manner provided by the articles of the company.

(2) Each share in a company having a share capital shall be distinguished by an appropriate number.

Certificate
of shares or
stock.

23. (1) A certificate under the hands of two directors and the secretary of the company or, if there be only one director under the hand of that director and of the secretary, specifying any shares or stock held by any member, shall be *prima facie* evidence of the title of the member to the shares or stock.

(2) Every certificate of vendors', promoters', founders' or management shares in a company shall, for a period of six months immediately succeeding the registration of the company, be distinguished as such by having the words "vendors' shares" "promoters' shares" "founders' shares" or "management shares" (as the case may be) conspicuously printed on the face of the certificate.

Definition of
"member".

24. (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and upon its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

Register of
members.

25. (1) Every company shall keep in one or more books a register of its members, and enter therein the following particulars :—

(i) the names and addresses of the members, and in the case of a company having a share capital, a statement of the shares held by each member, distinguishing each share by its

number and by its class or kind, and of the amount paid or agreed to be considered as paid on the shares of each member;

(ii) the date at which each person was entered in the register as a member;

(iii) the date at which any person ceased to be a member.

(2) If a company fails to comply with this section, it shall be liable to a fine not exceeding five pounds for every day during which the default continues; and every director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

26. (1) Every company having a share capital shall once at least in every year make a list of all persons who, on the fourteenth day after the first or only ordinary general meeting in the year, are members of the company, and of all persons who, holding shares not fully paid up, ceased to be members since the date of the last return, or (in the case of the first return) of the incorporation of the company.

Annual list of members and summary.

(2) The list shall state the names and addresses of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return, or (in the case of a first return) of the incorporation of the company, by persons who are still members and who have ceased to be members respectively and the dates of registration of the transfers, and shall contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars:—

(a) the amount of the share capital of the company, and the number of the shares into which it is divided;

(b) the number of shares taken from the commencement of the company up to the date of the return;

(c) the amount called up on each share;

(d) the total amount of calls received;

(e) the total amount of calls unpaid;

(f) the total amount of the sums (if any) paid by way of commission in respect of

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any shares or debentures, or allowed by way of discount in respect of any debentures, since the date of the last return ;

(g) the total number of shares forfeited ;

(h) the total amount of shares or stock for which share warrants are outstanding at the date of the return ;

(i) the total amount of share warrants issued and surrendered respectively since the date of the last return ;

(j) the number of shares or amount of stock comprised in each share warrant ;

(k) the names and addresses of the persons who at the date of the return are the directors of the company, or occupy the position of directors, by whatever name called ; and

(l) the total amount of debt due from the company in respect of all mortgages and charges.

(3) The summary shall also (except where the company is a private company) include a statement, made up to such date as may be specified in the statement, in the form of a balance-sheet, audited by the company's auditors, and containing a summary of its share capital, its liabilities, and its assets, giving such particulars as will disclose the general nature of those liabilities and assets, and how the values of the fixed assets have been arrived at, but the balance-sheet need not include a statement of profit and loss.

(4) The said list and summary shall be contained in a separate part of the register of members, and shall be completed within seven days after the fourteenth day aforesaid, and the company shall forthwith transmit to the Registrar a copy signed by the manager or by the secretary of the company.

(5) The Registrar may from time to time require a company to transmit to him, in addition to the list and summary transmitted under sub-section (4), a list of the persons for the time being members of the company and of all persons who have ceased to be members since the date of the last return or, if no return has been made, since the date of the incorporation of the company.

(6) If a company makes default in complying with any requirements of this section, it shall be

liable to a fine not exceeding five pounds for every day during which the default continues, and every director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

27. No notice of any trust, expressed, implied, or constructive, shall be entered on the register or be receivable by the Registrar.

Trusts not to be entered on register.

28. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee and subject also to the law for the time being in force relating to stamp duty or duty upon estates of deceased persons :

Registration of transfer at request of transferor.

Provided that no transfer of vendors', promoters', founders' or management shares in a company, other than an existing company, nor any contract to transfer or dispose of any such shares shall be valid if made before the expiration of six months immediately succeeding the registration of the company.

29. A transfer of the share or other interest of a deceased member of a company made by his legal representative shall, although the legal representative is not himself a member, be as valid as if he had been a member at the date of the execution of the instrument of transfer, subject always to the law for the time being in force relating to stamp duty or duty upon the estates of deceased persons.

Transfer by legal representative.

30. (1) The register of members, commencing from the date of the registration of the company, shall be kept at the registered office of the company, and, except when closed under the provisions of this Act, shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member or his attorney *gratis*, and, except in the case of a private company, to the inspection of any other person on payment of two shillings and sixpence or such

Inspection of register of members.

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less sum as the company may prescribe, for each inspection.

(2) Any member and, except in the case of a private company, any other person may require the company to furnish him with extracts from such register, or from the list and summary required by this Act, on payment of one shilling or such less sum as the company may prescribe, for every hundred words or fractional part thereof required to be extracted, or the company shall afford to any member and, except in the case of a private company, to any other person or his duly authorized agent adequate facilities for making such extracts.

(3) If any inspection, extract, or facilities for making extracts, required under this section is refused, the company shall be liable for each refusal to a fine not exceeding two pounds and to a further fine not exceeding two pounds for every day during which the refusal continues and every director, manager, secretary or other officer of the company who knowingly authorizes or permits the refusal shall be liable to the like penalty; and the Court may by order compel an immediate inspection of the register or the furnishing of the extract or the affording of facilities for making the same.

Power to
close register.

31. A company may, upon giving notice by advertisement in the *Gazette* and a newspaper circulating in the district in which the registered office of the company is situate, close the register of members for any time or times not exceeding in the whole sixty days in each year.

Remedy for
improper
entry or
omission of
entry in
register.

32. (1) If—

(a) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or
(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member, the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

(2) The application may be made by motion or in such other manner as the Court may direct; and the Court may either refuse the application, or may order rectification of the register, and

payment by the company, or by any director, manager, secretary, or other officer of the company, of any damages sustained by any party aggrieved.

(3) On any application under this section the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand; and generally may decide any question necessary or expedient to be decided for the rectification of the register.

(4) In the case of a company required by this Act to transmit a list of its members to the Registrar, the Court when making an order for the rectification of the register, shall by its order direct notice of the rectification to be given to the Registrar.

33. The register of members shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein. Register to be evidence.

34. (1) A company having a share capital, may, if so authorized by its articles, cause to be kept in any foreign country a register of members resident in that foreign country (in this Act called a branch register). Branch registers in foreign countries.

(2) The company shall give to the Registrar notice of the situation of the office where any branch register is kept, and of any change in its situation, and of the discontinuance of the office in the event of its being discontinued.

35. (1) A branch register shall be deemed to be a part of the company's register of members (in this section called the principal register). Regulations as to branch register.

(2) It shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the advertisement before closing the register shall, for a reasonable time before the closing, be inserted in some newspaper circulating in the district wherein the branch register is kept.

(3) The company shall transmit to its registered office a copy of every entry in its branch register as soon as may be after the entry is made; and shall cause to be kept at its registered office, duly

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entered up from time to time, a duplicate of its branch register, and the duplicate shall, for all the purposes of this Act, be deemed to be part of the principal register.

(4) The company may discontinue to keep any branch register, and thereupon all entries in that register shall be transferred to some other branch register kept by the company in the same foreign country, or to the principal register.

(5) Subject to the provisions of this Act and of any law for the time being in force relating to stamp duty or to duty upon the estates of deceased persons, any company may, by its articles, make such provisions as it may think fit respecting the keeping of branch registers.

Issue and
effect of share
warrants to
bearer.

36. (1) A limited company if so authorized by its articles, may, with respect to any fully paid-up shares, or to stock, issue a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant, in this Act termed a share warrant.

(2) A share warrant shall entitle the bearer thereof to the shares or stock therein specified, and such shares or stock may be transferred by the delivery of the share warrant.

(3) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register the name of a bearer of a share warrant in respect of the shares or stock therein specified without the share warrant being surrendered and cancelled.

(4) The bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles; except that he shall not be qualified, in respect of the shares or stock specified in the warrant, for being a director or manager of the company, in cases where such a qualification is required by the articles.

(5) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely:—

- (i) the fact of the issue of the warrant ;
- (ii) a statement of the shares or stock included in the warrant, distinguishing each share by its number ; and
- (iii) the date of the issue of the warrant.

(6) Until the warrant is surrendered, the said particulars shall be deemed to be the particulars required by this Act to be entered in the register of members ; and on the surrender, the date of the surrender shall be entered as if it were the date at which a person ceased to be a member.

37. (1) If any person—

- (i) with intent to defraud, forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any share warrant or coupon, or any document purporting to be a share warrant or coupon issued in pursuance of this Act ; or by means of any such forged or altered share warrant, coupon, or document, purporting as aforesaid demands or endeavours to obtain or receive any share or interest in any company, or to receive any dividend or money payable in respect thereof, knowing the share warrant, coupon, or document to be forged or altered ; or

(ii) falsely and deceitfully personates any owner of any share or interest in any company, or of any share warrant or coupon issued in pursuance of this Act, and thereby obtains or endeavours to obtain any such share or interest or share warrant or coupon, or receives or endeavours to receive any money due to any such owner as if the offender were the true and lawful owner ;
he shall be guilty of an offence, and liable on conviction to imprisonment for a period not exceeding ten years.

(2) If any person without lawful authority or excuse (the proof whereof shall lie upon him), engraves or makes upon any plate, wood, stone,

Forgery
personation
unlawfully
engraving
plates etc.

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or other material any share warrant, or coupon, purporting to be a share warrant, or coupon, issued or made by any particular company in pursuance of this Act, or to be a blank share warrant or coupon so issued or made, or to be a part of such a share warrant or coupon, or uses any such plate, wood, stone, or other material for the making or printing of any such share warrant or coupon, or of any such blank share warrant or coupon, or any part thereof respectively, or knowingly has in his custody or possession any such plate, wood, stone, or other material he shall be guilty of an offence, and liable on conviction to imprisonment for a period not exceeding ten years.

Power of company to arrange for different amounts being paid on shares.

38. A company, if so authorized by its articles, may do any one or more of the following things; namely,—

(1) Make arrangements on the issue of shares for a difference between classes of shareholders in the amounts and times of payment of calls on their shares :

(2) Accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up and, if the whole amount unpaid on any shares be paid, issue those shares as fully paid up :

(3) Pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

Power of limited company to alter its share capital.

39. (1) A limited company, if so authorized by its articles, may alter the conditions of its memorandum as follows; (that is to say), it may—

(a) increase its share capital by the issue of new shares of such amount as it thinks expedient ;

(b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares ;

(c) convert all or any of its paid-up shares into stock, and reconvert such stock into paid-up shares of any denomination ;

(d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the

sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived ;

(e) cancel shares which at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section with respect to sub-division of shares shall be exercised by special resolution.

(3) Where any alteration has been made under this section in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

If a company makes default in complying with this provision it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made ; and every director and officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

(4) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

40. Where a company having a share capital has consolidated and divided its share capital into shares of larger amount than its existing shares, or converted any of its shares into stock, or reconverted stock into shares, it shall give notice to the Registrar of the consolidation and division, conversion, or reconversion specifying the shares consolidated and divided, or converted, or the stock reconverted, and until such notice is given, the consolidation and division, conversion or reconversion shall not take effect.

Notice to Registrar of consolidation of capital conversion of shares into stock etc.

41. Where a company having a share capital has converted any of its shares into stock, and given notice of the conversion to the Registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the share capital as is converted into stock ; and the register of the members of the company, and the list of members to be transmitted to the

Effect of conversion of shares into stock.

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Registrar, shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares hereinbefore required by this Act.

Notice of
increase of
share capital
or of
members.

42. (1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has increased the number of members beyond the registered number, it shall give [notice]* to the Registrar, in the case of an increase of share capital, within fifteen days after the passing, or in the case of a special resolution the confirmation, of the resolution authorizing the increase, and in the case of an increase of members, within fifteen days after the increase was resolved upon or took place, notice of the increase of capital or members, and the Registrar shall record the increase, and the resolution shall not take effect until the increase is so recorded.

(2) If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding five pounds for every day during which the default continues, and every director, manager, secretary or other officer of the company who knowingly or wilfully authorizes or permits the default shall be liable to the like penalty.

Reorganiza-
tion of share
capital.

43. (1) A limited company may, by special resolution confirmed by an order of the Court, modify the conditions contained in its memorandum so as to re-organize its share capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes :

Provided that no preference or special privilege attaching to or belonging to any class of shares shall be interfered with, except by a resolution passed by a majority in number of shareholders of that class holding three-fourths of the share capital of that class and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed, and every resolution so passed shall bind all the shareholders of the class.

* The word "notice" appears to have been inserted here in error, as the verb "give" has its objective later in the sub-section. Cf. also section forty-four (1) of the *Public Companies (Consolidation) Act 1908*.
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(2) Where an order is made under this section, a certified copy thereof shall be lodged with the Registrar within seven days after the making of the order, or within such further time as the Court may allow, and the resolution shall not take effect until such copy has been so lodged.

REDUCTION OF SHARE CAPITAL.

44. (1) Subject to confirmation by the Court, a limited company, if so authorized by its articles, may by special resolution reduce its share capital in any way, and in particular (without prejudice to the generality of the power hereby conferred) may—

Special resolution for reduction of capital.

(a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or

(b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or

(c) either with or without extinguishing or reducing the liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company,

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) A special resolution under this section is in this Act called a resolution for reducing share capital.

45. Where a company has passed and confirmed a resolution for reducing share capital, it may apply to the Court by petition for an order confirming the reduction.

Application to Court for confirmation order.

46. On and from the confirmation by a company of a resolution for reducing share capital, or where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, then on and from the presentation of the petition for confirming the reduction, the company shall add to its name, until such date as the Court may fix, the words "and reduced", as the last words in its name, and those words shall, until that date, be deemed to be part of the name of the company :

Addition to name of company of "and reduced".

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Provided that, where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the Court may, if it thinks expedient, dispense altogether with the addition of the words "and reduced".

Objections by
creditors, and
settlement of
list of
objecting
creditors.

47. (1) Where the proposed reduction of share capital involves either the diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding-up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

(2) The Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

(3) Where a creditor entered on the list, whose debt or claim is not discharged or determined, does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company securing the payment of his debt or claim by appropriating, as the Court may direct, the following amount (that is to say),—

(i) if the company admits the full amount of his debt or claim, or though not admitting it, is willing to provide for it, then the full amount of the debt or claim ;

(ii) if the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like enquiry and adjudication as if the company were being wound-up by the Court.

48. The Court, if satisfied, with respect to every creditor of the company who under this Act is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

Order
confirming
reduction.

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49. (1) The Registrar on production to him of an order of the Court confirming the reduction of the share capital of a company, and the delivery to him of a copy of the order and of a minute (approved by the Court), showing with respect to the share capital of the company, as altered by the order, the amount of such capital, the number of shares into which it is to be divided, the amount of each share, and the amount (if any) at the date of the registration deemed to be paid up on each share, shall register the order and minute.

Registration
of order and
minute of
reduction.

(2) On the registration, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the Court may direct.

(4) The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

50. (1) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be as valid and alterable as if it had been originally contained therein; and shall be embodied in every copy of the memorandum issued after its registration.

Minute to
form part of
memo-
randum.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made, and every director, manager, secretary or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

**Act No. 31
of 1909.** Liability of
members in
respect of
reduced
shares.

51. A member of the company, past or present, shall not be liable, in respect of any share, to any call or contribution exceeding in amount the difference (if any) between the amount paid, or (as the case may be) the reduced amount (if any) which is to be deemed to have been paid, on the share and the amount of the share as fixed by the minute :

Provided that if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of the creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Act relating to winding-up by the Court, to pay the amount of his debt or claim, then—

(i) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before that registration ; and,

(ii) if the company is wound up, the Court, on the application of any such creditor, and proof of his ignorance as aforesaid may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding-up.

Nothing in this section shall affect the rights of the contributories among themselves.

Penalty on
concealment
of name of
creditor.

52. If any director, manager, or officer of the company wilfully conceals the name of any creditor entitled to object to the reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor, or if any director, manager, secretary or other officer of the company aids or abets in or is privy to any such concealment or misrepresentation as aforesaid, every such director, manager, or officer shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred pounds, or to

imprisonment without the option of a fine, for a period not exceeding twelve months or to both such fine and such imprisonment.

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53. In any case of reduction of capital, the Court may require the company to publish as the Court directs the reasons for reduction, or such other information in regard thereto as the Court may think expedient with a view to give proper information to the public, and, if the Court thinks fit, the causes which led to the reduction.

Publication of reasons for reduction.

REGISTRATION OF UNLIMITED COMPANY AS LIMITED.

54. (1) Subject to the provisions of this section, any company registered as unlimited may register under this Act as limited, but such registration as a limited company shall not affect any debts, liabilities, obligations, or contracts, incurred or entered into by, to, with, or on behalf of, the company before the registration.

Registration of unlimited company as limited.

(2) On registration in pursuance of this section the Registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with which he was furnished on the occasion of the original registration of the company, but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Act.

55. An unlimited company having a share capital, may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things namely:—

Power of unlimited company to provide for reserve share capital on re-registration.

(a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the amount by which the share capital is so increased shall be capable of being called up, except in the event and for the purposes of the company being wound up;

(b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

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Reserve
liability of
limited
company.

RESERVE LIABILITY OF LIMITED COMPANY.

56. A limited company may, by special resolution, determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

UNLIMITED LIABILITY OF DIRECTORS.

Limited com-
pany may
have directors
with un-
limited
liability.

57. (1) In a limited company the liability of the directors or managers, or of a managing director, may, if so provided by the memorandum, be unlimited.

(2) In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company (if any) and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, managers, and secretary (if any) of the company, or one of them shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director, manager, or proposer makes default in adding such statement, or if any promoter, director, manager, or secretary makes default in giving such notice, he shall be liable to a fine not exceeding one hundred pounds, and shall also be liable for any damage which the person so elected or appointed may sustain by reason of the default, but the liability of the person elected or appointed shall not be affected by the default.

Special
resolution of
limited
company
making
liability of
directors
unlimited.

58. (1) A limited company, if so authorized by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors, or managers, or of any managing director.

(2) Upon the confirmation of such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum; and a copy of the special resolution shall be embodied therein or annexed to every

copy of the memorandum issued after the confirmation of the resolution.

(3) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding one pound for each copy in respect of which default is made; and every director, manager, secretary or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

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CHAPTER III.

MANAGEMENT AND ADMINISTRATION.

OFFICE AND NAME.

59. (1) Every company shall have a registered office in this Colony to which all communications and notices may be addressed.

Registered
office of
company.

(2) Notice of the situation of such registered office, and of any change therein, shall be given to the Registrar, who shall record the same. Until such notice is given the company shall not be deemed to have complied with this section: Provided that an existing company shall give notice to the Registrar, within three months after the commencement of this Act, of the situation of its registered office.

(3) If a company carries on business without complying with the requirements of this section, it shall be liable to a fine not exceeding five pounds for every day during which it so carries on business.

60. (1) Every limited company—

(a) shall paint or affix, and keep painted or affixed its name on the outside of every office or place in which its business is carried on in a conspicuous position, and in letters easily legible;

(b) shall have its name engraved in legible characters on its seal (if any);

(c) shall have its name mentioned in legible characters in all notices, advertisements, and other official publications of the company, and in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills

Publication of
name by
limited
company.

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of parcels, invoices, receipts, and letters of credit of the company.

(2) If a limited company does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a fine not exceeding five pounds for not so painting or affixing its name, and for every day during which its name is not so kept painted or affixed, and every director, manager, secretary or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

(3) If any director, manager, secretary or other officer of a limited company or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement, or other official publication of the company or signs or authorizes to be signed on behalf of the company any bill of exchange, promissory note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt, or letter of credit of the company, wherein its name is not mentioned in manner aforesaid, he shall be liable to a fine not exceeding fifty pounds, and shall further be liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods, for the amount thereof, unless the same is duly paid by the company.

MEETINGS AND PROCEEDINGS.

Annual
general
meeting.

61. (1) A general meeting of every company shall be held once at least in every calendar year, and not more than fifteen months after the holding of the last preceding general meeting, and, if not so held, the company and every director, manager, secretary, and other officer of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds.

(2) When default has been made in holding a meeting of the company in accordance with this section, the Court may, on the application of any member of the company, call or direct the calling of a general meeting of the company.

62. (1) Every limited company shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company which shall be called the statutory meeting.

First
statutory
meeting of
company.

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(2) The directors shall, at least seven days before the day on which the meeting is held, transmit a report (in this Act called "the statutory report") to every member of the company and to every other person entitled under this Act to receive it.

(3) The statutory report shall be certified by not less than two directors of the company, or, where there are less than two directors, by the sole director and manager, and shall state—

(a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;

(b) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid;

(c) an abstract of the receipts of the company on account of its capital, whether from shares or debentures, and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company;

(d) the names, addresses, and occupations of the directors, auditors, managers (if any), and secretary of the company; and

(e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

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(4) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, be certified as correct by the auditors of the company.

(5) The directors shall cause a copy of the statutory report, certified as by this section required, to be lodged with the Registrar forthwith after the transmission thereof to the members of the company.

(6) The directors shall cause a list showing the names and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles or with section *sixty-five* may be passed.

(8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before, at, or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(9) If a petition is presented to the Court in manner provided by Chapter IV for winding up the company on the ground of default in lodging the statutory report or in holding the statutory meeting, the Court may, instead of directing that the company be wound up, give directions for the statutory report to be lodged or for a meeting to be held, or make such other order as may be just.

(10) The provisions of this section as to the transmission and lodging of the statutory report shall not apply in the case of a private company.

63. (1) Notwithstanding anything in the articles of a company, the directors of a company shall, on the requisition of the holders of not less than

Extra-
ordinary
general
meeting.

one-tenth of the issued share capital of the company upon which all calls or other sums then due have been paid, forthwith proceed to convene an extraordinary general meeting of the company.

(2) The requisition shall state the objects of the meeting, and shall be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If in the case of a meeting at which no extraordinary or special resolution is to be proposed the directors of the company do not proceed to cause such a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists, or a majority of them in value, may themselves convene the meeting, but any meeting so convened shall not be held after three months from the date of the deposit.

(4) If at any such meeting an extraordinary or special resolution is to be proposed by one of the requisitionists, the period of notice of the meeting shall be given in accordance with the provisions of section *sixty-five*, but the meeting so convened shall not be held later than four months from the date of the deposit.

(5) If at any such meeting a resolution requiring confirmation at another meeting is passed, the directors shall forthwith convene a further extraordinary general meeting for the purpose of considering the resolution, and, if thought fit, of confirming it as a special resolution; and, if the directors do not convene the meeting within seven days from the date of the passing of the first resolution, the requisitionists, or a majority of them in value, may themselves convene the meeting.

(6) Save as in sub section (4) is provided, any meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

64. Save as is otherwise provided by this Act, the manner, time, and place of holding general meetings of a company (including the statutory meeting)

Provisions as to meetings and votes.

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Notices to
foreign
shareholders
in case of
matters
requiring the
sanction of an
extraordinary
or special
resolution.

and the regulation of proceedings at general meetings of a company shall be as provided by the articles.

65. (1) Anything to the contrary notwithstanding in the articles, no extraordinary or special resolution of a company, nor any act or thing done by a company or its directors requiring under this Act the sanction of an extraordinary or special resolution, shall be valid unless notice, as in this section is prescribed, be given of the meeting at which the extraordinary or special resolution or act or thing requiring the sanction of such a resolution is to be proposed.

(2) If the registered address of any shareholder is outside this Colony but in South Africa, notice of the meeting shall be published three weeks at least before the date fixed for the meeting, in the *Gazette* and in a leading daily newspaper published in Capetown. If the registered address of any shareholder is outside South Africa, notice of the meeting shall be published two months at least before the date fixed for the meeting in a leading daily newspaper published in London. If the registered addresses of any shareholders are in one case within and in another case outside South Africa, the notice shall be published in all the publications herein described two months at least before the date fixed for the meeting.

(3) Nothing in this section shall be construed as preventing a company giving such a notice, in lieu of so publishing it, by prepaid registered post addressed to each member at his registered address.

(4) For the purposes of this section—

“registered address” shall mean the address given by the shareholder and registered in the books of the company as the address to which notices of meetings may be sent to him, but shall in no case (except where the shareholder is a director, manager, secretary, or officer of the company) be the address of the registered office of the company, or of any branch register hereinbefore described; and “South Africa” shall include any part of Africa south of the Equator.

(5) Nothing in this section contained shall apply to a private company.

66. A company which is a member of another company may, by resolution of the directors, authorize any of its officers or any other person to act as its representative at any meeting of that other company, and the person so authorized shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company.

Representation of companies at meetings of other companies of which they are members.

67. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than two-thirds of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a general meeting of which notice, specifying the intention to propose the resolution, and the general nature thereof, has been duly given, and at which members entitled in the aggregate to not less than one-fourth of the total votes of the company are present in person or by proxy (where proxies are allowed):

Extraordinary and special resolutions.

Provided that if less than one-fourth of the total votes be present at the meeting, it shall stand adjourned to the same day in the following week, or, if that day be a public holiday, to the next succeeding day other than a public holiday. At the adjourned meeting the members present in person or by proxy (where proxies are allowed) may deal with the business for which the original meeting was convened, and a resolution passed by not less than two-thirds of such members shall be deemed to be an extraordinary resolution notwithstanding that less than one-fourth of the total votes aforesaid be present.

(2) A resolution shall be a special resolution when it has been—

(a) passed in manner required for the passing of an extraordinary resolution; and

(b) confirmed by a majority of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a subsequent general meeting, of which notice has been duly given and held after an interval of not less than fourteen days, nor more than one month, from the date of the first meeting.

(3) At any meeting at which an extraordinary resolution is submitted to be passed or a special

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resolution is submitted to be passed or confirmed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting, at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a poll may be demanded by a person or persons for the time entitled according to the articles to vote, and holding not less than one-sixtieth of the share capital represented at the meeting.

(5) When a poll is demanded in accordance with this section, in computing the majority on the poll regard shall be had to the number of votes to which each member is entitled by the articles of the company.

(6) For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting shall be deemed to be duly held when the notice is given and the meeting held in manner provided by the articles, subject always, in the case of notice, to the provisions of section *sixty-five*.

Registration
of copies of
special and
extraordinary
resolutions.

68. (1) A copy of every special and extraordinary resolution shall within fifteen days from the confirmation of the special resolution, or from the passing of the extraordinary resolution (as the case may be), be transmitted to the Registrar, who shall record the same.

(2) Where articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the confirmation of the resolution.

(3) Where articles have not been registered, a copy of every special resolution shall be transmitted to any member at his request, on payment of one shilling or such less sum as the company may direct.

(4) If the company makes default in transmitting the copy of a special or extraordinary resolution to the Registrar it shall be liable to a fine not exceeding two pounds for every day during which the default continues.

(5) If a company makes default in embodying or annexing to a copy of its articles or in transmitting to a member when required by this section a copy of a special resolution, it shall be liable to a fine not exceeding one pound for each copy in respect of which default was made.

(6) Every director, manager, secretary or other officer of the company who knowingly and wilfully authorizes or permits any default by the company in complying with the requirements of this section shall be liable to the like penalty as is imposed by this section on the company for that default.

69. (1) Every company shall cause minutes of all proceedings of general meetings and (where there are directors or managers) of its directors or managers to be entered in books kept for that purpose.

Minutes of proceedings of meetings and directors.

(2) Any such minute if purporting to be signed by the chairman of a meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Until the contrary is proved, every general meeting of the company or meeting of directors or managers in respect of proceedings whereof minutes have been so made shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had.

APPOINTMENT, QUALIFICATION, ETC. OF DIRECTORS.

70. (1) A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in any prospectus issued by or on behalf of a company, or in relation to an intended company or in any statement in lieu of prospectus lodged by or on behalf of a company, unless, before the registration of the articles or the publication of the prospectus, or the lodging of the statement in lieu of prospectus (as the case may be), he has by himself or by his agent authorized in writing—

Restrictions on appointment or advertisement of director.

(i) signed and lodged with the Registrar a consent in writing to act as such director; and

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(ii) either signed the memorandum of association for a number of shares not less than his qualification (if any), or signed and lodged with the Registrar a contract in writing to take from the company and pay for his qualification shares (if any).

(2) On the application for registration of the memorandum and articles of a company the applicant shall deliver to the Registrar a list of the persons who have consented to be directors of the company, and if this list contains the name of any person who has not so consented the applicant, and every person who knowingly and wilfully authorized or permitted the insertion in the list of the name of a person who has not so consented, shall be liable to a fine not exceeding fifty pounds.

(3) This section shall not apply to a private company nor to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business.

Qualification
of director.

71. (1) Without prejudice to the restrictions imposed by the last preceding section, it shall be the duty of every director who is by the articles required to hold a specified share qualification, and who is not already qualified to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles.

(2) The office of director of a company shall be vacated if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of such period or shorter time he ceases at any time to hold his qualification; and a person vacating office under this section shall be incapable of being reappointed director of the company until he has obtained his qualification.

(3) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding five pounds for every day between the expiration of the said period or shorter time and the last day on which it is proved that he acted as a director.

72. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

Validity of acts of director.

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73. (1) Every company shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and send to the Registrar a copy thereof, and from time to time notify to the Registrar any change among its directors or managers.

List of directors to be sent to Registrar.

(2) If default is made in compliance with this section, the company shall be liable to a fine not exceeding five pounds for every day during which the default continues; and every director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

CONTRACTS ETC.

74. (1) Contracts on behalf of a company may be made as follows (that is to say):—

Form of contracts.

(i) any contract which if made between private persons would be by law required to be in writing, signed by the parties thereto or by their agents duly authorized in writing, may be made on behalf of the company in writing signed by any person duly authorized thereto in writing by two directors, acting *intra vires* or, if there be only one director, by that director, acting *intra vires*, and the contract may in the same manner be varied or discharged;

(ii) any contract which if made between private persons would by law be valid though made verbally only and not reduced to writing, may be made verbally on behalf of the company by any person acting under its authority, expressed or implied, and may in the same manner be varied or discharged.

(2) All contracts made in accordance with this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto, their heirs or legal representatives, as the case may be.

75. (1) A bill of exchange or promissory note shall be deemed to have been made,

Promissory notes and bills of exchange.

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accepted, or endorsed on behalf of a company if made, accepted, or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority.

(2) All documents, other than the documents mentioned in this and the last preceding section, shall, if executed on behalf of a company, be signed as described in the last preceding section unless the articles otherwise provide.

Execution of
deeds abroad.

76. A company may, by writing under the hands of two of its directors, or, if there be only one director, under the hand of that director and of the secretary, empower any person, either generally or in respect of any specified matters, as its agent, to execute deeds on its behalf in any foreign country; and every deed signed by such agent, on behalf of the company, shall bind the company.

Power to
companies to
have an
official seal
for use in
foreign
countries.

77. (1) Any company which has a common seal and whose objects require or comprise the transaction of business in foreign countries may, if authorized by its articles, have for use in any foreign country an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of the foreign country where it is to be used.

(2) A company having such an official seal, may, by writing under its common seal, authorize any person appointed for the purpose in any foreign country, to affix the same to any deed or other document to which the company is party in that foreign country.

(3) The authority of any such agent shall, as between the company and any person dealing with the agent continue during the period (if any) mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(4) The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and the place of affixing the same.

(5) A deed or other document to which such an official seal is duly affixed shall bind the company.

PROSPECTUS.

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78. (1) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

Lodging of
prospectus
with
Registrar.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorized in writing, shall be lodged for registration with the Registrar on or before the date of the publication of the prospectus, and no such prospectus shall be issued until a copy thereof has been so lodged for registration.

(3) The Registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been lodged for registration, as required by this section.

(5) If a prospectus is issued without a copy thereof being so lodged, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding five pounds for every day from the date of the issue of the prospectus until a copy thereof is so lodged.

79. (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, shall state—

Specific
requirements
as to particu-
lars of pros-
pectus.

(a) the contents of the memorandum, with the names, occupations, and addresses of the signatories, and the number of shares subscribed for by them respectively; and the number of vendors', promoters', founders', management, deferred, or other classes of shares (if any), and the nature and extent of the interest of the holders in the property and profits of the company; and

(b) the number of shares (if any) fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors; and

(c) the names, occupations, and addresses of the directors or proposed directors; and

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(d) the minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment on each share; and in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount (if any) paid on the shares so allotted; and

(e) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which such shares or debentures have been issued or are proposed or intended to be issued; and

(f) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares, or debentures, to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor: Provided that where the vendors or any of them are a partnership the members of the partnership shall not be treated as separate vendors; and

(g) the amount (if any) paid or payable as purchase money in cash, shares, or debentures, for any such property as aforesaid, specifying the amount (if any) payable for goodwill; and

(h) the amount (if any) paid within the two preceding years, or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of,

the company, or the rate of any such commission: Provided that it shall not be necessary to state the commission payable to sub-underwriters; and

(i) the amount or estimated amount of preliminary expenses; and

(j) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment; and

(k) the dates of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected: Provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of issue of the prospectus; and

(l) the names and addresses of the auditors of the company; and

(m) full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by, the company, or where the interest of a director consists in being a member of a partnership, the nature and extent of the interest of the partnership, with a statement of all sums paid or agreed to be paid to him or to the partnership in cash or shares or otherwise by any person, either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the partnership in connection with the promotion or formation of the company; and

(n) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred on the holders of the several classes of shares respectively.

(2) For the purposes of this section every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase,

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of any property to be acquired by the company, in any case where—

(a) the purchase money is not fully paid at the date of the publication of the prospectus; or

(b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or

(c) the contract depends for its validity or fulfilment on the result of that issue.

(3) Where any property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

(4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(5) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary to specify the contents of the memorandum or the signatories thereto, and the number of shares subscribed for by them.

(6) In the event of a failure to comply with any of the requirements of this section, a director or other person responsible for the prospectus shall be liable to a fine not exceeding five hundred pounds in addition to any liability incurred by him civilly for such failure but he shall not incur any liability, civil or criminal, by reason of such failure if he proves that—

(a) as regards any matter not disclosed, he was not cognisant thereof; or

(b) the failure arose from an honest mistake of fact on his part;

provided that in the event of a failure to comply with the requirements contained in paragraph (m) of sub-section (1) of this section no director or other person shall incur any liability, civil or criminal, in respect of such failure unless

it be proved that he had knowledge of the matters not disclosed.

(7) This section shall not apply to a circular or notice inviting existing members or debenture holders of the company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other persons, but, save as aforesaid, this section shall apply to any prospectus issued on or with reference to the formation of a company or subsequently.

(8) The requirements of this section as to the memorandum, and the qualification, remuneration, and interest of directors, the names, occupations, and addresses of directors or proposed directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

(9) Nothing in this section shall limit or diminish any liability which any person may incur under this Act apart from this section, or under any other statute, or under the common law.

80. (1) A company which does not issue a prospectus on or with reference to its formation shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been lodged with the Registrar a statement in lieu of prospectus, signed by every person who is named therein as a director or a proposed director of the company or by his agent authorized in writing, in the form and containing the particulars set forth in the Fifth Schedule to this Act.

Obligations of companies where no prospectus issued.

(2) This section shall not apply to a private company or to a company which has allotted any shares or debentures before the commencement of this Act.

81. A company shall not previously to the statutory meeting vary the terms of a contract referred to in the prospectus or statement in lieu of prospectus, except subject to the approval of the statutory meeting.

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.

82. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company, every person who is a director of the company

Liability for statements in prospectus.

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at the time of the issue of the prospectus, and every person who has authorized the naming of him and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

(a) with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures (as the case may be), believe, that the statement was true; and

(b) with respect to every such untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation. Provided that the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and

(c) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document:

or unless it is proved—

(i) that having consented to become a director of the company he withdrew his

consent before the issue of the prospectus, and that it was issued without his authority or consent; or

(ii) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or

(iii) that after the issue of the prospectus and before allotment thereunder, he on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.

(2) Where a company registered under the Limited Liability Companies Laws before the coming into operation of Law No. 1 of 1891 has issued shares or debentures, and, for the purpose of obtaining further capital by subscriptions for shares or debentures, issues a prospectus, a director shall not be liable in respect of any statement therein, unless he has authorized the issue of the prospectus, or has adopted or ratified it.

(3) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company (except any without whose knowledge or consent the prospectus was issued) and any other person who authorized the issue thereof shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(4) Every person who by reason of his being a director, or named as a director or as having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable

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was, and that other person was not, guilty of fraudulent misrepresentation.

(5) For the purposes of this section—

“promoter” shall mean a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but shall not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company ;

“expert” shall include an engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him.

ALLOTMENT.

Restrictions
as to allot-
ment.

83. (1) No allotment shall be made at any time of any share capital of a company offered to the public for subscription, unless the following conditions have been complied with, namely :—

(a) the amount (if any) fixed by the memorandum or articles and named in the prospectus as the minimum subscription upon which the directors may proceed to allotment not being less than seventy-five per cent. of the whole amount of the share capital offered for subscription ; or

(b) if no amount is so fixed and named, then the whole amount of the share capital so offered for subscription ;

has been subscribed, and the sum payable on application for the amount so fixed and named, or for the whole amount offered for subscription, has been paid to and received by the company.

(2) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Act referred to as the minimum subscription.

(3) The amount payable on application on each share shall not be less than ten per cent. of the nominal amount of the share.

(4) The amount paid on application shall be set apart by the directors as a separate fund and shall not be available for the purposes of the company or for the satisfaction of its debts

until the minimum subscription has been made up.

(5) If the conditions aforesaid have not been complied with on the expiration of forty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and if any such money is not so repaid within sixty days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of six per centum per annum from the expiration of the sixtieth day:

Provided that a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

(6) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(7) In the case of any allotment made at any time of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless the minimum subscription (that is to say):—

(a) the amount (if any) fixed by the memorandum or articles and named in the statement in lieu of prospectus as the minimum subscription upon which the directors may proceed to allotment not being less than seventy-five per cent. of the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash; or

(b) if no amount is so fixed and named, then the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash;

has been subscribed and an amount not less than ten per cent. of the nominal amount of each share payable in cash has been paid to and received by the company.

This sub-section shall not apply to a private company.

84. (1) An allotment made by a company to an applicant in contravention of the provisions of the last preceding section shall be voidable at

Effect of
irregular
allotment.

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the instance of the applicant within one month thereafter and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes or permits or authorizes the contravention of the last preceding section with respect to allotment, he shall be liable to a fine not exceeding one hundred pounds, and shall be further liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby: Provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of the allotment.

Restrictions
on commence-
ment of
business.

85. (1) A company shall not commence business or exercise any borrowing powers unless—

(a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and

(b) every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription, or in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, on the shares payable in cash; and

(c) there has been lodged with the Registrar an affidavit or other solemn declaration made by the secretary or one of the directors, that the conditions aforesaid have been complied with; and

(d) in the case of a company which does not issue a prospectus there has been lodged with the Registrar a statement in lieu of prospectus.

(2) The Registrar shall, on the lodging of this affidavit or solemn declaration, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled:

Provided that, in the case of a company which does not issue a prospectus, the Registrar shall not give such a certificate unless a statement in lieu of prospectus has been lodged with him.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(4) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(5) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding fifty pounds for every day during which the contravention continues.

(6) Nothing in this section shall apply to a private company, or to a company registered before the commencement of this Act which does not issue a prospectus.

86. (1) Whenever a limited company makes any allotment of its shares, the company shall within one month thereafter lodge with the Registrar—

Return as to allotments.

(a) a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, and addresses of the allottees, and the amount (if any) paid or due and payable on each share; and

(b) in the case of shares allotted as fully or partly paid up otherwise than cash, a contract in writing constituting the title of the allottee to the allotment, together with any contract of sale, or for services or other consideration in respect of which that allotment was made, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2) Where such a contract is not reduced to writing the company shall, within one month

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after the allotment, lodge with the Registrar the prescribed particulars of the contract.

(3) If default is made in complying with the requirements of this section, every director, manager, secretary, or other officer of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds for every day during which the default continues.

Provided that in case of default in lodging with the Registrar within one month after the allotment any document required to be lodged by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to lodge the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the lodging of the document for such period as the Court may think proper.

COMMISSIONS AND DISCOUNTS.

Power to
pay certain
commissions,
and
prohibition of
payment of
all other
commissions
discounts, etc.

87. (1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if the payment of the commission is authorized by the articles, and the commission paid or agreed to be paid does not exceed the amount or rate so authorized, and if the amount or rate per cent. of the commission paid or agreed to be paid is—

(a) in the case of shares offered to the public for subscription, disclosed in the prospectus ;
or

(b) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and lodged with the Registrar, and where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission,

discount, or allowance, to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay, and a vendor to, promoter of, or other person who receives payment in money or shares from a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

88. Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed or so much thereof as has not been written off, shall be stated in every balance-sheet of the company until the whole amount thereof has been written off.

Statement in
balance-sheet
as to
commissions
and discounts.

PAYMENT OF INTEREST OUT OF CAPITAL.

89. Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant:

Power of
company to
pay interest
out of capital
in certain
cases.

Provided that—

(1) No such payment shall be made unless the same is authorized by the articles or by special resolution:

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(2) No such payment, whether authorized by the articles or by special resolution, shall be made without the previous sanction of the Minister :

(3) Before sanctioning any such payment the Minister may, at the expense of the company, appoint a person to enquire and report to him as to the circumstances of the case, and may, before making the appointment, require the company to give satisfactory security for the payment of the costs of the enquiry :

(4) The payment shall be made only for such period as may be determined by the Minister ; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided :

(5) The rate of interest shall in no case exceed six per cent. per annum or such lower rate as may for the time being be prescribed by the Minister :

(6) The payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid :

(7) The accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.

CERTIFICATES OF SHARES, ETC.

Limitation of
time for issue
of certificates.

90. (1) Every company shall, within two months after the allotment of any of its shares, debentures, or debenture stock, and within two months after the registration of the transfer of any such shares, debentures, or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide.

(2) If default is made in complying with the requirements of this section, the company, and every director, manager, secretary, and other officer of the company who is knowingly a party

to the default, shall be liable to a fine not exceeding five pounds for every day during which the default continues.

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REGISTER OF MORTGAGES.

91. (1) Every company shall keep a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company, giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge, and (except in case of securities to bearer) the names of the mortgagees or persons entitled to the charge.

Company's register of mortgages.

(2) If any director, manager, secretary or other officer of the company knowingly or wilfully authorizes or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding fifty pounds.

(3) Nothing in this section contained shall apply to an existing company till the expiration of three months from the commencement of this Act.

92. (1) The register of mortgages kept in pursuance of the last preceding section shall be open at all reasonable times to the inspection of the Registrar or any creditor or member of the company without fee, and of any other person on payment of such fee, not exceeding two shillings and sixpence for each inspection, as the company may prescribe.

Right to inspect company's register of mortgages.

(2) If inspection of the said register is refused, any officer of the company refusing inspection, and every director, manager, secretary or other officer of the company authorizing or knowingly and wilfully permitting the refusal, shall be liable to a fine not exceeding five pounds, and a further fine not exceeding two pounds for every day during which the refusal continues; and in addition the Court may, by order, compel immediate inspection of the said register.

93. (1) Every register of holders of debentures of a company shall, except when closed in accordance with the articles, during such period or periods (not exceeding in the whole sixty days in any year) as may be specified in the articles, be open to the inspection of the registered holder of any such debentures, and of any

Right of debenture holders to inspect the register of debenture holders and to have copies of trust deed.

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holder of shares in the company; but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and the company shall furnish to every such holder extracts from the register on payment by such holder of one shilling for every hundred words or fractional part thereof required to be extracted or shall afford him or his duly authorized agent adequate facilities for making such extracts.

(2) A copy of any trust deed for securing any issue of debentures shall be transmitted to every holder of any such debentures at his request on payment, in the case of a printed trust deed, of the sum of two shillings and sixpence or such less sum as may be prescribed by the company, or where the trust deed has not been printed, on payment of one shilling for every hundred words or fractional part thereof required to be copied.

(3) If the inspection, extracts, or facilities be refused, or a copy of a trust deed be refused or not transmitted, the company shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding two pounds for every day during which the refusal continues, and every director, manager, secretary, or other officer of the company who knowingly authorizes or permits the refusal shall incur the like penalty.

DEBENTURES.

Power to re-issue redeemed debentures in certain cases.

94. (1) Where either before or after the commencement of this Act a company has redeemed any debentures previously issued, the company, unless the articles or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do (not being an obligation enforceable only by the person to whom the redeemed debentures were issued or his assigns) shall have power, and shall be deemed always to have had power, to keep the debentures alive for the purposes of re-issue, and where a company has purported to exercise such a power the company shall have power, and shall be deemed always to have had power, to re-issue the debentures either by re-issuing the same debentures or by issuing other debentures in

their place, and upon such a re-issue the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

(2) Where with the object of keeping debentures alive for the purpose of re-issue, they have either before or after the commencement of this Act been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a re-issue for the purposes of this section.

(3) Where a company has either before or after the commencement of this Act deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4) Nothing in this section shall prejudice any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished reserved to a company by its debentures or the securities for the same.

95. A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.

Specific performance of contract to subscribe for debentures.

INSPECTION AND AUDIT.

96. (1) The Minister may appoint one or more inspectors to investigate the affairs of any company and to report thereon in such manner as he may direct—

Investigation of affairs of company by inspectors appointed by Minister.

(a) in the case of a company having a share capital, on the application of members holding not less than one-tenth of the shares issued ;

(b) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members.

(2) The application shall be supported by such evidence as the Minister may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in requiring the investigation, and the Minister may, before appointing an inspector

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require the applicants to give satisfactory security for payment of the costs of the investigation.

(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or power.

(4) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(5) If any officer or agent refuses to produce any book or document which, under this section, it is his duty to produce, or to answer any question relating to the affairs of the company, notwithstanding that the answer may tend to incriminate him, he shall be liable to a fine not exceeding five pounds in respect of each offence.

(6) On the conclusion of the investigation the inspectors shall report their opinion to the Minister, who shall cause a copy of the report to be transmitted to the registered office of the company, and, at the request of the applicants for the investigation, shall cause a further copy to be delivered to such applicants. The report shall be written or printed, as the Minister directs.

(7) All expenses of and incidental to the investigation shall be defrayed by the applicants unless the Minister orders the same to be paid by the company.

Power of
company to
appoint
inspectors.

97. (1) A company may by special resolution appoint inspectors to investigate its affairs.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Minister, except that instead of reporting to him, they shall report in such manner and to such persons as the company in general meeting may direct.

(3) Officers and agents of the company shall incur the like penalties, in the case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the Minister.

Report of
inspectors to
be evidence.

98. A copy of the report of any inspectors appointed under this Act shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

99. (1) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

Appointment
and
remuneration
of auditors.

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(2) If an appointment of auditors is not made at an annual general meeting, the Minister may, on the application of any member of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(3) No director, manager, secretary or other officer of the company shall be capable of being appointed auditor of the company.

(4) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a shareholder to the company not less than fourteen days before the annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the shareholders, either by advertisement or in any other mode allowed by the articles, not less than seven days before the annual general meeting :

Provided that if, after notice of intention to nominate an auditor has been so given, an annual general meeting is called for a date fourteen days or less after the notice has been given, the notice, though not given within the time required by this sub-section, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this sub-section, be sent or given at the same time as the notice of the annual general meeting.

(5) The first auditor or auditors of the company shall be appointed by the directors before the statutory meeting, and shall hold office until the first annual general meeting, unless previously removed by a resolution of the shareholders in general meeting, in which case the shareholders at that meeting shall appoint auditors.

(6) The directors of a company may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors may act.

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Powers and
duties of
auditors.

(7) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors.

100. (1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

(2) The auditors shall make a report to the shareholders on the accounts examined by them, and on every balance-sheet laid before the company in general meeting during their tenure of office, and the report shall state—

(a) whether or not they have obtained all the information and explanations they have required; and

(b) whether, in their opinion, the balance-sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(3) The balance-sheet shall be signed on behalf of the board by two of the directors of the company or, if there is only one director, by that director, and the auditors' report shall be attached to the balance-sheet, or there shall be inserted at the foot of the balance-sheet a reference to the report, and the report shall be read before the company in general meeting, and shall be open to inspection by any shareholder.

Any shareholder shall be entitled to be furnished with a copy of the balance-sheet and auditors' report at a charge not exceeding one shilling for every hundred words.

(4) If any copy of a balance-sheet which has not been signed as required by this section is issued, circulated, or published, or if any copy of a balance-sheet is issued, circulated, or published without having a copy of the auditors' report attached thereto or containing such reference to that report as is required by this section, the

company, and every director, manager, secretary, or other officer who is knowingly a party to the default shall be liable to a fine not exceeding fifty pounds.

101. (1) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance-sheets of the company and the reports of the auditors and other reports, as are possessed by the holders of ordinary shares in the company.

Rights of preference shareholders and debenture holders as to receipt and inspection of reports.

(2) This section shall not apply to a private company, nor to an existing company.

CARRYING ON BUSINESS WITH LESS THAN THE LEGAL MINIMUM NUMBER OF MEMBERS.

102. If at any time the number of members of a company is reduced, in the case of a private company, below two, or, in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months, and is cognizant of the fact that it is carrying on business with fewer than two members, or seven members (as the case may be), shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be sued for the same, without any other member being joined in the action.

Prohibition of carrying on business with fewer than seven, or, in the case of a private company, two members.

ARBITRATIONS.

103. (1) A company may, by writing under the hands of two of its directors, or, if there be only one director, under the hand of that director, agree to refer and may refer to arbitration, in accordance with the Arbitration Ordinance 1904 or any amendment thereof, any existing or future difference between itself and any other company or person.

Arbitration between companies and others.

(2) Companies parties to the arbitration may delegate to the arbitrator power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.

(3) All the provisions of the said Ordinance or any amendment thereof, shall apply to arbitrations between companies and persons in pursuance of this Act.

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Power to
compromise
with creditors
and members.

POWER TO COMPROMISE.

104. (1) Where any compromise or arrangement is proposed between a company and its creditors or any class of them, or between a company and its members or any class of them, the Court may, on the application of the company or any creditor or member of the company or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members (as the case may be), to be summoned in such manner as the Court directs.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members (as the case may be), present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court be binding on all the creditors or the class of creditors, or on the members or class of members (as the case may be), and also on the company, or in the case of a company in course of being wound up, on the liquidator and contributories of the company.

PRIVATE COMPANY BECOMING A PUBLIC COMPANY.

Mode in
which private
company may
become
a public
company.

105. A private company may, subject to anything contained in the memorandum or articles, by passing a special resolution and lodging with the Registrar such a statement in lieu of prospectus, as the company, if a public company, would have had to lodge before allotting any of its shares or debentures, together with any such affidavit or other solemn declaration as the company, if a public company, would have had to lodge before commencing business, turn itself into a public company.

CHAPTER IV.**WINDING-UP.****PRELIMINARY.**

Modes of
winding-up.

106. (1) The winding-up of a company may be either—

- (i) by the Court ; or
- (ii) voluntary ; or
- (iii) subject to the supervision of the Court.

(2) The provisions of this Act with respect to winding-up apply, unless the contrary appears, to the winding-up of a company in any of those modes.

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CONTRIBUTORIES.

107. (1) In the event of a company being wound up, every present and past member shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges, and expenses of the winding-up, and for the adjustment of the rights of the contributories among themselves, with the qualifications following (that is to say):—

Liability as contributories of present and past members.

(i) A past member shall not be liable to contribute if he has ceased to be a member for a period of one year or upwards before the commencement of the winding-up :

(ii) A past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member :

(iii) A past member shall not be liable to contribute unless it appears to the Court that the present members are unable to satisfy the contributions required to be made by them in pursuance of this Act :

(iv) In the case of a limited company no contribution shall be required from any member exceeding the amount (if any) unpaid on the shares in respect of which he is liable as a present or past member :

(v) Nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract, whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract :

(vi) A sum due to any member of a company, in his character of a member, by way of dividends, profits, or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company ; but any such sum may be taken into account, for the

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purpose of the final adjustment of the rights of the contributories amongst themselves.

(2) In the winding-up of a limited company, any creditor or manager, whether past or present, whose liability is, in pursuance of this Act, unlimited shall, in addition to his liability (if any) to contribute as an ordinary member be liable to make a further contribution as if he were at the commencement of the winding-up a member of an unlimited company :

Provided that—

(i) A past director or manager shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding-up :

(ii) A past director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office :

(iii) Subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the Court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of the winding-up.

Meaning of
"contribu-
tory".

108. The term "contributory" shall mean every person liable to contribute to the assets of a company in the event of its being wound up, and in all proceedings for determining and in all proceedings prior to the final determination of the persons who are to be deemed contributories, shall include any person alleged to be a contributory.

Nature of
liability of
contributory.

109. The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

Contribu-
tories in case
of death.

110. If a contributory dies before or after he has been placed on the list of contributories, his executors or his heirs or legatees shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly, the liability of the legatees or heirs, if the estate

has passed into their hands, being assessed ratably to the extent of the legacies or inheritances (as the case may be) severally received by them.

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111. If a contributory becomes insolvent either before or after he has been placed on the list of contributories, then—

Contribu-
tories in case
of insolvency.

(i) his trustee in insolvency shall represent him for all the purposes of the winding-up, and shall be a contributory accordingly; and

(ii) there may be proved against the estate of the insolvent the estimated value of his liability to future calls, as well as calls already made.

WINDING-UP BY COURT.

112. A company may be wound up by the Court—

Circum-
stances in
which com-
pany may be
wound up by
Court.

(i) if the company has by special resolution resolved that the company be wound up by the Court;

(ii) if default is made in lodging the statutory report or in holding the statutory meeting;

(iii) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;

(iv) if the number of members is reduced, in the case of a private company below two, or, in the case of any other company, below seven;

(v) if seventy-five per cent. of the paid up share capital of the company has been lost, or has become useless for the business of the company;

(vi) if the company is unable to pay its debts;

(vii) if the Court is of opinion that it is just and equitable that the company should be wound up.

113. A company shall be deemed to be unable to pay its debts —

Company
when deemed
unable to pay
its debts.

(i) if a creditor, by cession or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving the same at its registered office, a demand requiring the company to pay the sum so due, and the company has for three weeks thereafter neglected to pay the sum, or to secure or

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compound for it to the reasonable satisfaction of the creditor; or

(ii) if execution or other process issued on a judgment, decree, or order of any court of law in favour of a creditor of the company is returned by the sheriff or messenger with the endorsement that he has not found sufficient assets to satisfy the judgment, decree, or order, or that any assets found did not, upon sale, satisfy the execution or other process; or

(iii) if it is proved to the satisfaction of the Court that the company is unable to pay its debts, and in determining whether a company is unable to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company.

Application
for winding-
up a company.

114. (1) An application to the Court for the winding-up of a company shall be by petition, presented (subject to the provisions of this section) by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately :

Provided that—

(a) a contributory shall not be entitled to present a petition for winding-up a company, unless—

(i) the number of members is reduced in the case of a private company, below two, or in the case of any other company, below seven; or

(ii) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of the winding-up, or have devolved upon him through the death of a former holder; and

(b) a petition for winding-up a company on the ground of default in lodging the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held; and

(c) the Court shall not give a hearing to a petition for winding-up a company by a contingent or prospective creditor until such security for costs has been given as the Court thinks reasonable and until a *prima facie* case for winding-up has been established to the satisfaction of the Court.

(2) Where a company is being wound up voluntarily or subject to supervision, a petition may be presented by the Master, or by any other person authorized in that behalf under the other provisions of this section, but the Court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding-up or winding-up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories.

115. An order for winding-up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

Effect of winding-up order.

116. A winding-up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

Commencement of winding-up by Court.

117. At any time after the presentation of a petition for winding-up, and before a winding-up order has been made, the company, or any creditor or contributory, may—

Court may stay or restrain proceedings against the company.

(a) where any action or proceeding is pending in any court of law in this Colony, apply to such court for a stay of proceedings therein; and

(b) where any other action or proceeding is pending against the company, apply to the court having jurisdiction to wind-up the company to restrain further proceedings in the action or proceeding;

and the court to which application is so made may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

118. (1) On hearing the petition the Court may dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally, or make any *interim* order, or any other order that it deems just, but the Court shall not refuse

Powers of Court on hearing petition.

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to make a winding-up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

(2) When the petition is presented on the ground of default in lodging the statutory report or in holding the statutory meeting the Court may order the costs to be paid by any persons who, in the opinion of the Court, are responsible for the default.

Actions stayed on winding-up order.

119. When a winding-up order has been made, no action or proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose.

Copy of order to be transmitted to Registrar and other officers.

120. (1) On the presentation of the petition, written notice thereof, and on the making of a winding-up order, a copy thereof, shall forthwith be transmitted by the registrar of the court to which the petition is presented, or of the court which made the order, to the Registrar, the Master, the registrar of deeds, the registrar of mining titles, and every other officer charged with the duty of registering title to immovable property or mining title.

(2) The Registrar upon receipt of such notice or copy shall make a minute thereof in his books relating to the company.

(3) The Master upon receipt of such copy shall as soon as may be thereafter advertise the terms thereof in the *Gazette*.

(4) The registrar of deeds, the registrar of mining titles and every other registering officer aforesaid upon receipt of such notice or copy shall make a minute thereof in his register and shall transmit to the Master as soon as may be a return of any immovable property or ground held under mining title (as the case may be) which is registered in that register in the name of the company.

Power of Court to stay winding-up.

121. The Court may at any time after an order for winding-up, on the application of any creditor or contributory, and on proof to the satisfaction of the Court that all proceedings in relation to the winding-up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Court deems fit.

122. The Court may, as to all matters relating to a winding-up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Court may have regard to wishes of creditors or contributories.

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MASTER OF THE SUPREME COURT.

123. (1) Where the Court has made a winding-up order, there shall be made out and submitted to the Master a statement as to the affairs of the company in the prescribed form, verified by affidavit, and showing the particulars of its assets, debts, and liabilities, the names, residences, and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the Master may require; a duplicate of such statement shall be lodged with the liquidator.

Statement of company's affairs to Master.

(2) The statement shall be submitted and verified by one or more of the persons who are at the time of the winding-up order the directors and by the person who is at that time the secretary or other chief officer of the company, or by such of the persons being or having been directors or officers of the company or having taken part in the formation of the company at any time within one year before the winding-up order, as the Master, subject to the direction of the Court, may require to submit and verify the same.

(3) The statement shall be submitted within fourteen days from the date of the order, or within such extended time as the Master or the Court may for special reasons appoint.

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the Master, out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the Master may consider reasonable, subject to an appeal to the Court.

(5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding ten pounds for every day during which the default continues.

(6) Any person stating himself in writing to be a creditor or contributory of the company shall be

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entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom. But any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of court and shall be punishable accordingly on the application of the liquidator or of the Master.

Report by
Master.

124. (1) Where the Court has made a winding-up order, the Master shall, as soon as practicable after receipt of the statement of the company's affairs, submit a preliminary report to the Court—

(a) as to the amount of capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities; and

(b) if the company has failed, as to the causes of the failure; and

(c) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation, or failure of the company, or the conduct of the business thereof.

(2) The Master may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the Court.

LIQUIDATORS.

Appointment
remuneration
and title
of liquidators.

125. (1) For the purpose of conducting the proceedings in winding-up a company and performing such duties in reference thereto as the Court may impose, the Court may appoint a liquidator or liquidators.

(2) The Court may make such appointment provisionally at any time after the presentation of a petition and before the making of an order for winding-up.

(3) (a) If a provisional liquidator is appointed before the making of a winding-up order, any fit person may be appointed:

(b) On a winding-up order being made all the property of the company shall be deemed to be in the custody or control of the Master until a liquidator is appointed and is capable of acting as such:

(c) A person shall not be capable of acting as liquidator until he has notified his appointment to the Registrar and found security to the satisfaction of the Master.

(4) If more than one liquidator is appointed by the Court, the Court shall declare whether any act by this Act required or authorized to be done by the liquidator is to be done by all or any one or more of the persons appointed.

(5) A liquidator appointed by the Court may, with the leave of the Court, resign, or, on cause shown, be removed by the Court.

(6) A vacancy in the office of liquidator appointed by the Court shall be filled by the Court.

The property of the company shall be deemed to be in the custody or control of the Master during the vacancy if there is no liquidator remaining.

(7) A liquidator shall receive the prescribed fees as remuneration.

(8) If any such liquidator shall fail without sufficient excuse to lodge with the Master the liquidation account and plan of distribution hereinafter prescribed, and within the time so prescribed, the Master may, subject to a right of appeal by the liquidator to the Court, disallow the whole or any portion of the remuneration which such liquidator, in that capacity, would otherwise have been entitled to receive.

(9) A liquidator shall be described by the style of the liquidator of the particular company in respect of which he is appointed, and not by his individual name.

(10) The acts of a liquidator shall be valid notwithstanding any defects that may be afterwards discovered in his appointment or qualification.

126. In a winding-up by the Court the liquidator shall take into his custody, or under his control, all the property, movable and immovable, to which the company is or appears to be entitled.

Custody of
company's
property.

Act No. 31 Powers of
of 1909. liquidator.

127. (1) The liquidator in a winding-up by the Court shall have power with the sanction either of the Court or of the committee of inspection—

(a) to bring or defend any action or other legal proceeding of a civil nature and, subject to the provisions of Chapter III of the Criminal Procedure Code 1903, any criminal proceeding, in the name and on behalf of the company ;

(b) to carry on the business of the company so far as may be necessary for the beneficial winding-up thereof ;

(c) to employ an attorney of the Supreme Court or other agent to take any proceedings or do any business which the liquidator is unable to take or do himself ; provided that the sanction of the Court shall be obtained before the employment, except in cases of urgency, and in those cases it must be shown that no undue delay took place in obtaining the sanction ;

(d) to sell the movable and immovable property of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels ;

(e) to do all acts and to execute in the name and on behalf of the company all deeds, receipts, and other documents and for that purpose to use the company's seal if the company has a common seal and the articles of the company require the documents to be executed under its common seal ;

(f) to prove rank and claim in the insolvency or sequestration of any contributory for any balance against his estate and to receive dividends in the insolvency or sequestration in respect of that balance, as a separate debt due from the insolvent, and ratably with the other separate creditors or in the legal order of their preference ;

(g) to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill or note had

been drawn accepted made or endorsed by or on behalf of the company in the course of its business ;

(h) to raise on the security of the assets of the company any money requisite ;

(i) to apply in his official name for letters of administration to any deceased contributory, and to do in his official name any other act that may be necessary for obtaining payment of any money due from a contributory, or his estate which cannot be conveniently done in the name of the company ; and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself ;

(j) to do all such other things as may be necessary for winding-up the affairs of the company and distributing its assets.

The liquidator in a winding-up by the Court of an insolvent company shall have the same rights, in respect of leases or agreements for leases entered into by the company, which the trustee of an insolvent estate has under the law for the time being relating to insolvency.

(2) The exercise by the liquidator in a winding-up by the Court of the powers conferred by this section shall be subject to the control of the Court and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of those powers.

(3) Where a liquidator is provisionally appointed by the Court, the Court may limit and restrict his powers by the order appointing him.

128. (1) When a winding-up order has been made by the Court, the Master shall summon separate meetings of the creditors and contributories of the company for the purpose of—

Meetings of
creditors and
contributories
in
winding-up.

(a) determining the person or persons whose names shall be submitted to the Court in an application to the Court for appointing a liquidator or liquidators ; and

(b) determining whether or not an application is to be made to the Court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.

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(2) The Court may make any appointment and order required to give effect to any such determination, and if there is a difference between the determinations of the meetings of the creditors and contributories in respect of any of the matters mentioned in the preceding provisions of this section, the Court shall decide the difference and make such order thereon as the Court may think fit.

(3) The provisions of the Sixth Schedule to this Act shall, subject to such modifications as may be made therein by rules of Court, apply to any meeting summoned in pursuance of this section.

Liquidator to give information to Master.

129. Every liquidator shall give the Master such information and such access to and facilities for inspecting the books and documents of the company, and generally such aid as may be requisite for enabling that officer to perform his duties under this Act.

Payments of liquidator in winding-up into bank.

130. (1) Every liquidator of a company which is being wound up by the Court shall forthwith pay the money received by him to a bank named by the Master and the bank shall furnish him with a certificate of receipt of the money so paid :

Provided that, if the committee of inspection satisfy the Master that for the purpose of carrying on the business of the company or of obtaining advances, or for any other reason, it is for the advantage of the creditors or contributories that the liquidator should have an account with any other bank, the Master shall, on the application of the committee of inspection, authorize the liquidator to make his payments into and out of such other bank as the committee may select, and thereupon those payments shall be made in the prescribed manner.

(2) If any such liquidator at any time retains for more than three days a sum exceeding fifty pounds, or such other amount as the Master in any particular case authorizes him to retain, then, unless he explains the retention to the satisfaction of the Master, he shall pay interest on the amount so retained in excess at the rate of twenty per cent. per annum, and shall be liable to disallowance of all or such part of his remuneration as the Master may think just, and to be removed from his office by the Court, and shall be liable

to pay any expenses occasioned by reason of his default.

(3) A liquidator of a company which is being wound up by the Court shall not pay any sums received by him as liquidator into his private banking account.

131. (1) Every liquidator of a company which is being wound up by the Court shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the Master an account of his receipts and payments as liquidator.

Audit of liquidator's accounts in winding-up.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by an affidavit or other solemn declaration in the prescribed form.

(3) The Master shall cause the account to be audited and for the purpose of the audit the liquidator shall furnish the Master with such vouchers and information as the Master may require, and the Master may at any time require the production of and inspect any books or accounts kept by the liquidator.

(4) When the account has been audited, one copy thereof shall be filed and kept by the Master, another copy shall be sent to the liquidator, and another copy shall be filed with the Court, and each copy shall be open to the inspection of any creditor, or of any person interested.

(5) The liquidator shall cause the account when audited or a summary thereof to be printed, and shall send a copy of the account or summary by post to every creditor and contributory.

(6) The cost of any audit, printing, or transmission of accounts under this section shall be expenses properly incurred in the winding-up.

132. Every liquidator of a company which is being wound up by the Court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the Court, personally or by his agent inspect any such books.

Books to be kept by liquidator in winding-up.

133. The liquidator shall, in a winding-up of a company by the Court, be under the like obligations with regard to the framing and

Obligations of liquidator as to framing liquidation account etc.

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lodging of a liquidation account and a plan of distribution or contribution, as the trustee of an insolvent estate appointed under the law for the time being in force relating to insolvency; and the confirmation of such account and plan of distribution or contribution, and the distribution of all moneys payable thereunder, shall be subject to the provisions of such law :

Provided that the Master may give such directions with regard to the advertisement of the account and plan of distribution or contribution, and the period of time during which it shall lie open for inspection, as he shall think fit, having regard to all the circumstances of the case.

Procedure on failure of liquidator to lodge liquidation account.

134. As often as a liquidator shall fail to lodge with the Master the account mentioned in the last preceding section, the Master, or any person having an interest in the company being wound up, may, at any time after the expiry of six months from the date on which the certificate of appointment was given to such liquidator, apply to the Court for an order upon the liquidator to show cause why such account has not been lodged ;

Provided that the Master or the person aforesaid shall, not later than one month before notice of the application is served upon the liquidator, make written demand upon him to lodge his account.

Release of liquidators.

135. (1) When the liquidator of a company which is being wound up by the Court has realised all the property of the company, and has distributed a final dividend, if any, to the creditors, and adjusted the rights of the contributories among themselves, and made a final return, if any, to the contributories, the Master shall, on the liquidator's application, cause a report on his accounts to be prepared, and, on the liquidator's complying with all the requirements of the Master, the Court shall take into consideration the report, and any objection which may be urged by any creditor, or contributory, or person interested against the release of the liquidator, and, upon consideration of that report and the objection (if any) and of a report made to the Court by the Master, the Court may either grant or withhold the release.

(2) Where the release of a liquidator is withheld the Court may, on the application of any creditor, or contributory, or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

(3) An order of the Court releasing the liquidator shall discharge the liquidator from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office.

136. (1) Subject to the provisions of this Act, the liquidator of a company which is being wound up by the Court shall, in the administration of the assets of the company, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

Exercise and control of liquidator's powers.

(2) The liquidator may, by notice in the *Gazette*, summon general meetings of the creditors or of the contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or the contributories (as the case may be), by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or of the contributories as the case may be.

(3) The liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising under the winding-up.

(4) Subject to the provisions of this Act, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

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Control of
Master over
liquidators.

(5) If any person is aggrieved by any act or decision of the liquidator, that person may apply to the Court, and the Court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just.

137. (1) The Master shall take cognizance of the conduct of liquidators of companies which are being wound up by the Court, and if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by statute, rules, or otherwise with respect to the performance of his duties, or, if any complaint is made to the Master by any creditor or contributory in regard thereto, the Master shall enquire into the matter and take such action thereon as he may think expedient.

(2) The Master may at any time require any liquidator of a company which is being wound up by the Court to answer any enquiry in relation to any winding-up in which such liquidator is engaged, and may, if he thinks fit, apply to the Court to examine such liquidator or any other person on oath concerning the winding-up.

(3) The Master may also direct a local investigation to be made of the books and vouchers of the liquidator.

(4) The Court may, upon the application of the Master, order that any costs reasonably incurred by him in carrying out the powers of this section be paid out of the assets of the company or by the liquidator *de bonis propriis*.

COMMITTEE OF INSPECTION, SPECIAL MANAGER.

Committee of
inspection.

138. (1) A committee of inspection appointed in pursuance of this Act shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the Court.

(2) The committee shall meet at such times as it may from time to time appoint, and, failing such appointment, at least once a month; and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3) The committee may act by a majority of its members present at a meeting, but shall not act unless a majority of the committee are present.

(4) Any member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(5) If a member of the committee becomes insolvent, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.

(6) Any member of the committee may be removed by an ordinary resolution at a meeting of creditors (if he represents creditors), or of contributories (if he represents contributories) of which seven days' notice in the *Gazette* has been given, stating the object of the meeting.

(7) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, reappoint the same or appoint another creditor or contributory to fill the vacancy.

(8) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

(9) If there is no committee of inspection, any act or thing or any direction or permission by this Act authorized or required to be done or given by the committee may be done or given by the Master on the application of the liquidator.

139. (1) The Master may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company apply to the Court to, and the Court may on such application, appoint a special manager thereof to act during such time as the Court may direct, with such powers, including any of the powers of a manager, as may be entrusted to him by the Court.

Power to
appoint
special
manager.

(2) The special manager shall give such security and account in such manner as the Master directs.

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(3) The special manager shall receive the prescribed fees as remuneration.

ORDINARY POWERS OF COURT.

Settlement
of list of
contributories
and
application
of assets.

140. (1) As soon as may be after making a winding-up order, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where such rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected, and applied in discharge of its liabilities.

(2) In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

Power to
require
delivery of
property.

141. The Court may at any time after making a winding-up order, require any contributory for the time being settled on the list of contributories, and any trustee, banker, agent or officer of the company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the Court directs, to the liquidator, any money, property, or books and papers in his hands to which the company is *prima facie* entitled.

Power to order
payment of
debts by
contributory.

142. (1) The Court may, at any time after making a winding-up order, make an order on any contributory for the time being settled on the list of contributories to pay, in manner directed by the order, any money due from him, or from the estate of the person whom he represents, to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

(2) The Court in making such order may, in the case of an unlimited company, allow to the contributory by way of a set-off any money due to him, or to the estate which he represents, from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and may, in the case of a limited company, make to any director or manager thereof whose liability is unlimited or to his estate the like allowance.

(3) But in the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account

whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

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143. (1) The Court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of contributories to the extent of their liability, for payment of any money which the Court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of winding-up, and for the adjustment of the rights of the contributories among themselves.

Power of
Court to make
calls.

(2) In making a call the Court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

144. (1) The Court may order any contributory, purchaser, or other person from whom money is due to the company to pay the same into a bank to be named by the Court to the account of the liquidator instead of to the liquidator, and such order may be enforced in the same manner as if it had directed payment to the liquidator.

Power of
Court to order
payment into
bank.

(2) All moneys and securities paid or delivered into a bank as aforesaid in the event of a winding-up by the Court shall be subject in all respects to the orders of the Court.

145. (1) An order made by the Court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money (if any) thereby appearing to be due or ordered to be paid is due.

Order on
contributory
conclusive
evidence.

(2) All other pertinent matters stated in such order shall be taken *prima facie* as truly stated as against all persons and in all proceedings whatsoever.

146. The Court may fix a time or times within which creditors of the company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

Power to
exclude
creditors not
proving in
time.

**Act No. 31
of 1909.**

Court to
adjust
rights of con-
tributories.
Power to
order costs.

147. The Court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

148. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges, and expenses incurred in the winding-up in such order of priority as the Court thinks just.

Dissolution of
company.

149. (1) When the affairs of a company have been completely wound up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(2) A copy of the order shall forthwith be transmitted by the registrar of the court which made the order to the Registrar, who shall make a minute in his books of the dissolution of the company.

(3) A copy of the order shall also be transmitted forthwith by the registrar of the court which made the order to the Master, to the registrar of deeds, the registrar of mining titles, and to every officer charged with the duty of registering title to immovable property or mining title in this Colony.

(4) The order shall be published by the liquidator in the *Gazette*, and in such newspapers as the Court may direct, within seven days after the making of the order.

(5) If the liquidator makes default in complying with any requirement of this section, he shall be liable to a fine not exceeding five pounds for every day during which he is in default.

Delegation to
liquidator
of certain
powers of
Court.

150. Rules of court may be made for enabling or requiring all or any of the powers and duties conferred and imposed on the Court by this Act, in respect of the matters following, to be exercised or performed by the liquidator as an officer of the Court, and subject to the control of the Court; that is to say, the powers and duties of the Court in respect of—

(a) holding and conducting meetings to ascertain the wishes of creditors and contributories;

(b) settling lists of contributories and rectifying the register of members where required, and collecting and applying the assets;

- (c) requiring delivery of property or documents to the liquidator
- (d) making calls ;
- (e) fixing a time within which debts and claims must be proved :

Provided that the liquidator shall not, without the special leave of the Court, rectify the register of members, and shall not make any call without either the special leave of the Court or the sanction of the committee of inspection.

EXTRAORDINARY POWERS OF COURT.

151. (1) The Court may, after it has made a winding-up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the Court deems capable of giving information concerning the trade, dealings, affairs, or property of the company.

Power to summon persons before it suspected of having property of company.

(2) The Court may examine him on oath concerning the same, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them, and he may be required to answer any question put to him on the examination, notwithstanding that the answer might tend to incriminate him: Provided that any answer given to any such question shall not be used against him in any prosecution other than for perjury or for the offence under this Act of giving false evidence.

(3) The Court may require him to produce any books and papers in his custody or power relating to the company ; but where he claims any lien on books or papers produced by him ; the production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, fails to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it) the Court may cause him to be apprehended, and brought before the Court for examination.

**Act No. 31
of 1909.** Power to
order public
examination
of promoters,
directors, etc.

152. (1) When an order has been made for winding-up a company by the Court, and the Master has made a further report under this Act, showing that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by a director or officer of the company in relation to the company since its formation, the Court may, after consideration of the report, direct that any person who has taken part in the promotion or formation of the company, or has been a director or officer of the company, shall attend before the Court on a day appointed by the Court for that purpose, and be publicly examined as to the promotion or formation, or the conduct of the business of the company, or as to his conduct and dealings as director or officer thereof.

(2) The Master may take part in the examination, and for that purpose may, if specially authorized by the Minister in that behalf, employ an attorney with counsel.

(3) The liquidator, and any creditor or contributory, may also take part in the examination either personally or by attorney with counsel.

(4) The Court may put such questions to the person examined as the Court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him notwithstanding that any answer may tend to incriminate him.

(6) A person ordered to be examined under this section shall at his own cost, before his examination, be furnished with a copy of the Master's report, and may at his own cost employ an attorney with counsel, who shall be at liberty to put to him such questions as the Court may deem just for the purpose of enabling him to explain or qualify any answers given by him. Provided that if he is, in the opinion of the Court, exculpated from any charges made or suggested against him, the Court may allow him such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may, save as herein provided, thereafter be used in evidence against him, and shall be open to the

inspection of any creditor or contributory at all reasonable times: Provided that any answer given by a person upon an examination under this section shall not be used against him in any prosecution other than for perjury or for the offence under this Act of giving false evidence.

(8) The Court may, if it thinks fit, adjourn the examination from time to time.

(9) An examination under this section may, if the Court so directs, and subject to rules of court, be held before the Master, or a commissioner or a magistrate or other person named or appointed for the purpose by the Court, and the powers of the Court under this section as to the conduct of the examination, but not as to costs, may be exercised by the person before whom the examination is held: Provided that at an examination held before the Master, or a commissioner, or a magistrate, or such other person as aforesaid, an attorney may appear without counsel.

153. The Court, at any time before or after making a winding-up order, on proof that there is reason to believe that a contributory is about to quit the Colony, or otherwise to abscond, or to remove or conceal any property for the purpose of evading payment of calls, or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested, and his books and papers and movable property to be seized, and him and them to be safely kept until such time as the Court may order.

Power to
arrest
absconding
contributory

154. Any powers by this Act conferred on the Court shall be deemed to be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

Powers of
Court
cumulative.

155. Subject to rules of court, an appeal from any order or decision made or given for or in the winding-up of a company by the Court under this Act shall lie in the same manner and subject to the same conditions as an appeal from any order or decision of the Court in cases within its ordinary jurisdiction.

Appeals from
order.

**Act No. 31
of 1909.****VOLUNTARY WINDING-UP OF COMPANY.**

Circumstances under which company may be wound up voluntarily.

156. A company may be wound up voluntarily—

(1) When the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily :

(2) If the company resolves by special resolution that the company be wound up voluntarily :

(3) If the company resolves by extraordinary resolution that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

Commencement of voluntary winding-up.

157. A voluntary winding-up shall be deemed to commence at the time of the passing of the resolution authorizing the winding-up.

Effect of voluntary winding-up on status of company.

158. When a company is wound up voluntarily the company shall, from the commencement of the winding-up, cease to carry on its business, except in so far as may be required for the beneficial winding-up thereof :

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

Notice of resolution to wind up voluntarily.

159. (1) When the company has resolved by special or extraordinary resolution to wind up voluntarily it shall as soon as may be give notice of the resolution by advertisement in the *Gazette*.

(2) Notice in writing of the resolution shall also be given as soon as may be by the company to the Master, to the registrar of deeds, to the registrar of mining titles, and to every officer charged with the duty of registering title to immovable property or mining title in this Colony.

(3) If default is made by a company in complying with the requirements of this section the company, and every director, manager secretary or other officer of the company, who knowingly authorized or permitted the default

shall be liable to a fine not exceeding five pounds for every day during which the default continues.

**Act No. 31
of 1909.**

160. The following consequences shall ensue on the voluntary winding-up of a company:—

Consequences
of voluntary
winding-up.

(i) The property of the company shall be applied in satisfaction of its liabilities in the legal order of their preference and subject thereto, shall, unless the articles otherwise provide, be distributed amongst the members according to their rights and interests in the company;

(ii) the company in general meeting shall appoint one or more liquidators for the purpose of winding-up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them;

(iii) on the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance;

(iv) the liquidator may, without the sanction of the Court, exercise all powers by this Act given to the liquidator in a winding-up by the Court;

(v) the liquidator may exercise the powers of the Court under this Act of settling a list of contributories, and of making calls, and shall pay the debts of the company, and adjust the rights of the contributories among themselves;

(vi) the list of the contributories shall be *prima facie* evidence of the liability of the persons named therein to be contributories;

(vii) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two;

(viii) if from any cause whatever there is no liquidator acting, the Court may, on the application of a contributory, appoint a liquidator;

(ix) the Court may, on good cause shown, remove a liquidator and appoint another liquidator.

Act No. 31 Notice by
of 1909. liquidator
of his
appointment.

161. (1) The liquidator in a voluntary winding-up shall, within twenty-one days after his appointment, lodge with the Registrar and with the Master, a notice of his appointment in the prescribed form.

(2) If the liquidator fails to comply with the requirements of this section he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Rights of
creditors in
a voluntary
winding-up.

162. (1) Every liquidator appointed by a company in a voluntary winding-up shall, within seven days from his appointment, send notice by post to all persons who appear to him to be creditors of the company, that a meeting of the creditors of the company will be held on a date, not being less than fourteen nor more than twenty-one days after his appointment, and at a place and hour, to be specified in the notice, and shall also advertise notice of the meeting once in the *Gazette* and once at least in two newspapers circulating in the district where the registered office or principal place of business of the company was situate.

(2) At the meeting to be held in pursuance of the provisions of this section the creditors shall determine whether an application shall be made to the Court for the appointment of any person as liquidator in the place of or jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection, and, if the creditors so resolve, an application may be made accordingly to the Court at any time not later than fourteen days after the date of the meeting, by any creditor appointed for the purpose at the meeting.

(3) On any such application the Court may make an order either for the removal of the liquidator appointed by the company and for the appointment of some other person as liquidator or for the appointment of some other person to act as liquidator jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection either together with or without any such appointment of a liquidator or such other order as, having regard to the interests of the creditors and contributories of the company, may seem just.

(4) No appeal shall lie from any order of the Court upon an application under this section.

(5) The Court shall make such order as to the costs of the application as it may think fit, and if it is of opinion that, having regard to the interests of the creditors in the liquidation, there were reasonable grounds for the application, may order the costs of the application to be paid out of the assets of the company, notwithstanding that the application is dismissed or otherwise disposed of adversely to the applicant.

163. (1) If a vacancy occurs by death, resignation, or otherwise in the office of liquidator appointed by the company in a voluntary winding-up, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

Power to fill vacancy in office of liquidator.

(2) For that purpose a general meeting may be convened by any contributory, or, if there were more liquidators than one, by the continuing liquidator or liquidators.

(3) The meeting shall be held in manner prescribed by the articles, or in such manner as may, on application by any contributory or by the continuing liquidator or liquidators, be determined by the Court.

164. (1) A company about to be, or in the course of being wound up voluntarily, may, by extraordinary resolution, delegate to its creditors or to any committee of them, the power of appointing liquidators or any of them, and of supplying vacancies among the liquidators, or enter into any arrangement with respect to the powers to be exercised by the liquidators, and the manner in which they are to be exercised.

Delegation of authority to appoint liquidators.

(2) Any act done by creditors in pursuance of any such delegated power shall have the same effect as if it had been done by the company.

165. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up voluntarily, and its creditors, shall, subject to any right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

Arrangement when binding on creditors.

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Power of liquidators to accept shares etc., as a consideration for sale of property of company.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court against it and the Court may thereupon, as it thinks just, amend, vary, or confirm the arrangement.

166. (1) Where a company is proposed to be, or is being, wound up altogether voluntarily and the whole or part of its business or property is proposed to be transferred or sold to another company, whether registered under this Act or not, (in this section called the transferee company) the liquidator of the first mentioned company (in this section called the transferor company) may, with the sanction of a special resolution of that company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares, policies, or other like interests in the transferee company, for distribution amongst the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution at either of the meetings held for passing and confirming the same, expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the confirmation of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by this section.

(4) If the liquidator elects to purchase the member's interest, the purchase money shall be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for winding-up the company, or for appointing liquidators; but if an order be made within a year for winding-up the company by or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

(6) For the purposes of an arbitration under this section the provisions of the Expropriation of Lands and Arbitration Clauses Proclamation 1902 and of the Arbitration Ordinance 1904 or any amendment thereof with respect to settlements of disputes by arbitration shall be incorporated with this Act.

167. (1) Where a company is being wound up voluntarily, the liquidator or any contributory or creditor of the company may apply to the Court to determine any question arising in the winding-up, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the Court might exercise if the company were being wound up by the Court.

Power to
apply to
Court.

(2) The Court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as the Court thinks fit, or may make such other order on the application as the Court thinks just.

168. (1) Where a company is being wound up voluntarily, the liquidator may summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution, or for any other purposes he may think fit.

Power of
liquidator to
call general
meeting.

(2) In the event of the winding-up continuing for more than six months, the liquidator shall summon a general meeting of the company at the end of the first six months from the commencement of the winding-up, and of each succeeding period of six months or as soon thereafter as may be convenient, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding-up during the preceding period of six months.

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of 1909** Final meeting
and dissolu-
tion.

169. (1) In the case of every voluntary winding-up, as soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding-up, showing how the winding-up has been conducted and the property of the company has been disposed of; and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement in the *Gazette* specifying the time, place, and object thereof, and published one month at least before the meeting.

(3) Within one week after the meeting, the liquidator shall make a return to the Registrar and to the Master of the holding of the meeting and of its date, and in default of so doing shall be liable to a fine not exceeding five pounds for every day during which any such default continues.

(4) The Registrar on receiving the return shall forthwith register it, and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved.

Provided that the Court may, on the application of the liquidator, or of any other person who appears to the Court to be interested make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under this section is made, within seven days after the making of the order, to lodge with the Registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Saving of
rights of
creditors and
con-
tributories.

170. The voluntary winding-up of a company shall not bar the right of any creditor or contributory at any time before its dissolution to have it wound up by the Court, if the Court is of opinion, in the case of an application by a creditor, that the rights of the creditor, or, in the case of an application by a contributory, that the rights of the contributory, will be prejudiced by a voluntary winding-up.

171. Where a company is being wound up voluntarily, and an order is made for winding-up by the Court, the Court may, if it thinks fit, by the same or any subsequent order, provide for the adoption of all or any of the proceedings in the voluntary winding-up.

Power of Court to adopt proceedings of voluntary winding-up.

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WINDING-UP SUBJECT TO SUPERVISION
OF COURT.

172. When a company has by special or extraordinary resolution resolved to wind up voluntarily, the Court may make an order that the voluntary winding-up shall continue but subject to such supervision of the Court, and with such liberty for creditors, contributories, or others to apply to the Court, and generally on such terms and conditions as the Court thinks just.

Power to order winding-up subject to supervision.

173. A petition for the continuance of a voluntary winding-up subject to the supervision of the Court shall, for the purpose of giving jurisdiction to the Court over actions, be deemed to be a petition for winding-up by the Court.

Effect of petition for winding-up subject to supervision.

174. The Court may, in deciding between a winding-up by the Court and a winding-up subject to supervision, in the appointment of liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Court may have regard to wishes of creditors and contributories.

175. (1) When an order is made for a winding-up subject to supervision, the Court may by the same or any subsequent order appoint any additional liquidator.

Power for Court to appoint or remove liquidators.

(2) A liquidator appointed by the Court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if he had been appointed by the company.

(3) The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order, and fill any vacancy occasioned by the removal, or by death or resignation.

176. (1) Where an order is made for a winding-up subject to supervision, the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction

Effect of supervision order.

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or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily.

(2) A winding-up subject to the supervision of the Court is not a winding-up by the Court for the purpose of the following provisions of this Act, namely those contained in sections *one hundred and twenty-three, one hundred and twenty-four, one hundred and twenty-five* except sub-section (10) thereof, *one hundred and twenty-eight to one hundred and thirty-nine* inclusive, *one hundred and fifty* and *one hundred and fifty-two*, but, save as aforesaid an order for winding-up subject to supervision shall for all purposes, including the staying of actions and other legal proceedings, the making and enforcement of calls, and the exercise of all other powers, be deemed to be an order for winding-up by the Court.

SUPPLEMENTAL PROVISIONS.

Costs of winding-up.

177. All costs, charges, and expenses properly incurred in any winding-up of a company, including the remuneration of the liquidator or liquidators, shall, unless the Court otherwise orders, be payable out of the assets of the company and in priority to all other claims.

Voidance of transfers after commencement of winding-up.

178. (1) In the case of a voluntary winding-up every transfer of shares except transfers made to or with the sanction of the liquidator, and every alteration in the status of the members of the company, made after the commencement of the winding-up, shall be void.

(2) In the case of a winding-up by or subject to the supervision of the Court, every disposition of the property (including rights of action) of the company, and every transfer of shares, or alteration in the status of its members, made after the commencement of the winding-up, shall, unless the Court otherwise orders, be void.

Debts of all descriptions to be proved.

179. In every winding-up (subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law for the time being relating to insolvency) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against

the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

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180. In the winding-up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law relating to insolvency, with respect to the estates of persons sequestrated; and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding-up, and make such claims against the company as they respectively are entitled to by virtue of this section.

Application
of Insolvency
Law in
winding-up of
insolvent
companies.

181. (1) In a winding-up there shall be paid in priority to all other debts—

Preferential
payments in
winding-up.

- (a) all taxes due and payable to the Crown;
- (b) all assessment rates, erf taxes, sanitary, water, and other like charges payable to any local authority by the company at any time within twelve months ending the thirtieth day of June next before the date hereinafter mentioned in this section;
- (c) the wages or salary of any clerk or servant in respect of services rendered to the company during two months next before the date hereinafter mentioned in this section;
- (d) the wages of any workman or labourer not exceeding fifty pounds whether payable for time or for piece work in respect of services rendered to the company during the two months immediately preceding the said date:

Provided that where any labourer or workman has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the period of hiring, he shall have priority in respect of the whole of such sum, or a part thereof, as the Court may decide to be due under the contract, proportionate to the time of service up to the said date;

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(e) unless the company is being wound up voluntarily merely for the purpose of reconstruction or of amalgamation with another company all amounts (not exceeding in any individual case two hundred and fifty pounds) due in respect of compensation under the Workmen's Compensation Act 1907 or any amendment thereof the liability whereof accrued before the said date, subject nevertheless to the provisions of section *twenty-nine* of the said Act or any amendment of such section.

(2) The debts described in sub-section (1) shall—

(a) rank equally between themselves and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of mortgagees and holders of debentures created by the company, and be paid accordingly out of any property comprised in or subject to the document securing the claims of the mortgagees or debenture holders.

(3) Subject to the retention of such sums as may be necessary for the costs charges and expenses of winding-up, all the debts described in sub-section (1) shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) The date hereinbefore in this section mentioned is—

(a) in the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order; and

(b) in any other case the date of the commencement of the winding-up.

(5) The provisions of this section shall apply in the winding-up of every company, anything to the contrary in Chapter IV of the Master and Servants Law 1880 notwithstanding.

Voidable and
and due
preferences.

182. (1) Every disposition of its property which would, if made by an individual, be

deemed in the event of his insolvency to have been void or voidable or an undue preference shall, if made by a company, be deemed, in the event of its being wound up and then insolvent, void or voidable or an undue preference (as the case may be) and the provisions of the law for the time being relating to insolvency shall *mutatis mutandis* be applied to any such disposition.

(2) For the purpose of this section the presentation of a petition for winding-up in the case of a winding-up by or subject to the supervision of the Court, and a resolution for winding-up in the case of a voluntary winding-up, shall be deemed to correspond with the sequestration order in the case of an individual.

(3) Any cession or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

183. In the case of a winding-up of any insolvent company, the provisions of the law for the time being relating to insolvency shall *mutatis mutandis* be applied in respect of any matter not specially provided for in this Act.

Insolvency Law to be applied *mutatis mutandis* to insolvent companies where no special provision in this Act.

184. Where any company is being wound up by or subject to the supervision of the Court, any attachment or execution put in force against the estate or effects of the company after the commencement of the winding-up shall be void to all intents.

Voidance of certain attachments executions etc.

185. (1) The liquidator may with the sanction following (that is to say)—

General scheme of liquidation may be sanctioned.

(a) in the case of a winding-up by the Court, with the sanction either of the Court or of the committee of inspection;

(b) in the case of any winding-up subject to supervision, with the sanction of the Court; and

(c) in the case of a voluntary winding-up, with the sanction of an extraordinary resolution of the company;

do the following things or any of them :—

(i) Pay any classes of creditors in full;

(ii) Make any compromise or arrangement with creditors or persons claiming to be

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creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable ;

(iii) Compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding-up of the company, upon such terms as may be agreed, and take any security for the discharge of such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) In the case of a winding-up by the Court the exercise by the liquidator of the powers of this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of those powers.

Power of
Court to assess
damages
against
delinquent
promoters
directors etc.

186. (1) Where in the course of winding-up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager, or liquidator, or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the Master, or of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator, or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retention, misfeasance, or breach of trust as the Court thinks just.

(2) This section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

187. If any director, officer, or contributory of any company being wound up destroys, mutilates, alters, or falsifies any books, papers, or securities, or makes or is privy to the making of a false or fraudulent entry in any register, book of account, or document belonging to the company with intent to defraud or deceive any person, he shall be guilty of an offence and liable to imprisonment without the option of a fine for a period not exceeding seven years.

Penalty for falsification of books etc.

188. (1) If it appears in the course of winding-up of a company, that any past or present director, manager, officer or member of the company has been guilty of an offence in relation to the company for which he is criminally responsible, the liquidator shall cause all the facts known to him which appear to constitute the offence to be laid before the Attorney-General, and, in the event of the Attorney-General certifying that he declines to prosecute, the liquidator may, subject to the provisions of section *one hundred and twenty-seven*, institute and conduct a private prosecution for such offence.

Prosecution of delinquent directors etc.

(2) The Court may, upon application by the liquidator, order the whole or any portion of the costs and expenses incidental to such private prosecution to be paid out of the assets of the company in priority to all other liabilities.

189. (1) Where by this Act the Court is authorized, in relation to winding-up, to have regard to the wishes of creditors or contributories as proved to it by any sufficient evidence, the Court may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held, and conducted in such manner as the Court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the Court.

Meetings to ascertain wishes of creditors or contributories.

(2) In the case of creditors regard shall be had to the value of each creditor's debt.

(3) In the case of contributories regard shall be had to the number of votes conferred on each contributory by the articles.

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Books of
company to
be evidence.

190. Where any company is being wound up all books and papers of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

Inspection of
books.

191. After an order has been made for winding-up by or subject to the supervision of the Court, the Court may make such order for inspection by creditors and contributories of the company of its books and papers as the Court thinks just, and any books and papers in the possession of the company may be inspected by creditors and contributories accordingly, but not further or otherwise.

Disposal of
books
accounts and
documents of
company.

192. (1) When any company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows (that is to say):—

(a) In the case of a winding-up by or subject to the supervision of the Court, in such way as the Court directs ;

(b) In the case of a voluntary winding-up, in such way as the company by extraordinary resolution directs.

(2) After five years from the dissolution of the company, no responsibility shall rest on the company, or the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of the same not being forthcoming to a person claiming to be interested therein.

Power of
Court to
declare
dissolution of
company void.

193. (1) When a company has been dissolved, the Court may, at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested, make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

(2) It shall be the duty of the person on whose application the order was made, within seven days after the making of the order, to lodge with the Registrar a certified copy of the order,

and if that person fails so to do, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

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194. (1) Where a company is being wound up, if the winding-up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding-up is concluded, transmit to the Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

Information
as to pending
liquidations.

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the liquidator or of the Master.

(3) If a liquidator fails to comply with the requirements of this section he shall be liable to a fine not exceeding fifty pounds for each day during which the default continues.

(4) If it appears from any such statement or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company, which have remained unclaimed or undistributed for six months after the date of their receipt, the liquidator shall forthwith pay that money to the Master, who shall deposit the same in the Guardian's Fund referred to in the Administration of Estates Proclamation 1902 or any amendment thereof, and the liquidator shall be entitled to a certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof.

(5) Any person claiming to be entitled to any money paid to the Master in pursuance of this section may apply to him for payment of the same, and the Master may, on a certificate by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due.

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Special Com-
missioners
for taking
evidence.

(6) Any person dissatisfied with the decision of the Master in respect of any claim made in pursuance of this section may appeal to the Court.

195. (1) All magistrates and such other persons as the Court may appoint shall be commissioners for the purpose of taking evidence under this Act in cases where a company is wound up in any part of the Colony, and the Court may refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed commissioner, although he is out of the jurisdiction of the court which made the winding-up order.

(2) Every commissioner shall, in addition to any powers which he might lawfully exercise as magistrate, have in the matter so referred to him, the same powers of summoning and examining witnesses, of requiring the production or delivery of documents, of punishing defaults by witnesses, and of allowing costs and expenses to witnesses, as the court which made the winding-up order.

(3) The examination so taken shall be returned or reported to the court which made the order in such manner as that court directs.

**REMOVAL OF DEFUNCT COMPANIES
FROM REGISTER.**

Registrar may
strike
defunct com-
pany off
register.

196. (1) When the Registrar has reasonable cause to believe that a company is not carrying on business or is not in operation, he shall send to the company by post a letter enquiring whether it is carrying on business or is in operation.

(2) If the Registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company a registered letter referring to the first letter and stating that no answer thereto has been received, and that if an answer is not received to the second letter within one month from the date thereof a notice will be published in the *Gazette* with a view to striking the name of the company off the register.

(3) If the Registrar either receives an answer from the company to the effect that it is not carrying on business or is not in operation, or does not within one month after sending the second letter receive any answer, he may publish in the *Gazette* and send to the company by post a notice that

at the expiration of three months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound up, the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months after notice by the Registrar demanding the returns has been sent by post to the company, or to the liquidator at his last known place of business, the Registrar may publish in the *Gazette* and send to the company a like notice as is provided in the last preceding sub-section.

(5) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register and shall publish notice thereof in the *Gazette*, and on the publication of this notice the company shall be dissolved: Provided that the liability (if any) of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register the Court, on the application of the company, or member or creditor may, if satisfied that the company was at the time of the striking off carrying on business or was in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off; and the Court may, by the order, give such directions and make such provision as seem just for placing the company and all other persons in the same position, as nearly as may be, as if the company had not been struck off.

(7) A letter or notice under this section shall be addressed to the company at its registered office, or, if no office has been registered to the

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Orders to be transmitted to Master and registering officers.

care of some director or officer of the company, or, if there is no director or officer of the company whose name and address are known to the Registrar, may be sent to each of the persons who subscribed the memorandum addressed to him at the address mentioned in the memorandum.

197. (1) Whenever under this Act any order is made by the Court in connection with the winding-up or dissolution of a company, a copy of such orders shall, as soon as may be after the making thereof, be transmitted by the registrar of the court which made the order to the Master.

(2) Whenever any such order affects the title to immovable property or mining title a copy of the order shall, as soon as may be after the making thereof, be transmitted by the registrar of the court which made the order to the registrar of deeds, the registrar of mining titles, and to every registering officer charged with the duty of registering title to immovable property or mining title in this Colony.

CHAPTER V.

FOREIGN COMPANIES.

Requirements as to foreign companies.

198. (1) Every foreign company (other than a banking company or insurance company as hereinafter defined), which, at the commencement of this Act, has a place of business in this Colony and every foreign company which, after such commencement, establishes a place of business in this Colony shall within three months after the commencement, of this Act or within one month after the establishment of the place of business, as the case may be, lodge with the Registrar—

(a) a certified copy of the charter, statutes, or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not in the English or the Dutch language, a certified translation thereof;

(b) a list of the directors of the company;

(c) the names and addresses of some one or more persons resident in this Colony authorized to accept on behalf of the company service of process and any notices required to be served on the company;

and in the event of any alteration being made in any such instrument, or in the directors, or in the names or addresses of any such persons as aforesaid, the company shall within three months of such alteration lodge with the Registrar a notice of the alteration.

(2) Every foreign company to which this section applies shall, in every year, lodge with the Registrar such a statement as would, if it were a company registered under Chapter I and having a share capital, be required under Chapter II to be included in the annual list and summary.

(3) Every foreign company to which this section applies and which uses the word " Limited " as part of its name shall—

(a) in every prospectus inviting subscriptions for its shares or debentures in this Colony, state the foreign country in which the company is registered or incorporated; and

(b) conspicuously exhibit, outside all its places of business in this Colony, the name of the company and the foreign country in which the company is registered or incorporated; and

(c) have the name of the company and of the foreign country in which the company is registered or incorporated, mentioned in legible characters in all billheads, and letter paper, and in all notices, advertisements, and other official publications of the company.

(4) If any foreign company to which this section applies fails to comply with any requirement of this section, the company, and every officer or agent of the company in this Colony shall be liable to a fine not exceeding fifty pounds, or, in the case of a continuing default, five pounds for every day during which the default continues.

(5) For the purposes of this section—

" banking company " shall mean a company which by reason of the business carried on by it (but so far only as concerns such business) is subject to the provisions of Law No. 2 of 1893 or any amendment thereof;

" insurance company " shall mean a company which by reason of the business carried on by it (but so far only as concerns such

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business) is subject to the provisions of Law No. 8 of 1898 or any amendment thereof;

“certified” shall mean certified in the manner prescribed by the Minister to be a true copy or a correct translation;

“place of business” shall mean any place where the company transacts, or holds itself out as transacting business, and shall include a share transfer or share registration office.

(6) There shall be paid to the Registrar for registering every document required by this section to be lodged with him the prescribed fee.

CHAPTER VI.

APPLICATION OF ACT.

Application
of Act to
companies
formed under
Limited
Liability
Companies
Laws and
certain other
companies.

199. (1) This Act (other than Chapters V and VII thereof) shall apply—

(a) to every existing company; and

(b) to every company, not being a foreign company, which was incorporated under Law No. 6 of 1874 and appears in the books of the Registrar's office at the commencement of this Act as so incorporated, in the same manner as if the company had been formed and registered under this Act as a limited company and every company to which this Act is so applied shall be deemed to be duly incorporated and registered under this Act: Provided that—

(a) reference in this Act, express or implied, to the date of registration, shall be construed as a reference to the date at which the company was registered under the Limited Liability Companies Laws or (as the case may be) was incorporated under Law No. 6 of 1874;

(b) nothing in this Act contained shall affect any right or privilege acquired, or liability incurred, whether by agreement or otherwise, before the commencement of this Act, by any such company or affect the validity of the articles of such a company which were in force at such commencement, save in so far as those articles may be affected by subsection (2) of this section;

(c) the provisions of this Act relating to the winding-up of companies by the Court shall not apply to any such company if it has commenced to be wound up by the Court before the commencement of this Act, but the winding-up of any such company by the Court shall be continued as if this Act had not passed.

(2) Those provisions of the articles of any existing company which should have been contained in a memorandum of association if the company had been formed under this Act, shall, for the purposes of this Act, be deemed to be the memorandum of association of the company, and shall be subject in all respects to the provisions of this Act relating to a memorandum of association.

200. Every foreign company which was incorporated under Law No. 6 of 1874 and appears at the commencement of this Act in the books of the Registrar's office as still so incorporated shall continue to be a company incorporated in this Colony, and shall further be subject to all the provisions of Chapters V and VII of this Act.

Application of Act to foreign companies incorporated under Law No. 6 of 1874.

201. Where a company or a foreign company is subject to the provisions of—

Restricted application of Act in case of banking and insurance companies.

(a) Law No. 2 of 1893 or any law which for the time being is specially applicable to banking companies; or

(b) Law No. 8 of 1898 or any law which for the time being is specially applicable to life, fire, or accident insurance companies or societies,

the provisions of this Act which would otherwise apply in respect of such company shall not apply wherever those provisions would be inconsistent with any such law.

202. (1) Nothing in this Act contained shall apply to co-operative agricultural societies as defined in the Co-operative Agricultural Societies Act 1908, or any amendment thereof save as is otherwise provided in section *twenty-four* of that Act.

Exemption from Act of co-operative agricultural societies, building societies, friendly societies, and trade unions.

(2) The provisions of this Act shall not be construed as applying to a building society, a friendly society, or a trade union, unless the society or union is, at the commencement of

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this Act, registered under the Limited Liability Companies Laws :

Provided that—

(i) any society or union in this sub-section mentioned shall, until the enactment of any law providing for its registration and management, be permitted to register under Chapter I upon complying with the provisions of that Chapter in respect of registration ;

(ii) every such society or union, unless so registered, shall be deemed for the purposes of Chapter VII, to be an unregistered company.

(3) In this section—

“ building society ” shall, until a law is in force in this Colony regulating building societies, mean a society of persons, formed for the sole purpose of raising by the subscription of its members, a fund out of which advances may be made to members upon the security of immovable property and, when any such law is in force, shall mean a building society as there in defined ;

“ friendly society ” shall, until a law is in force in this Colony regulating friendly societies, mean a society of persons formed solely or mainly for the purpose of raising by the voluntary subscriptions of its members, with or without the aid of donations, a fund—

(a) for the relief or maintenance of members and their relatives during minority, old age, widowhood, sickness, or other infirmity, mental or bodily, or for the endowment at any age of members or their nominees ;

(b) providing medical attendance and procuring medicines and medical requirements for such members or relatives ;

(c) insuring a sum of money to be paid on the birth of a member's child or on the death of a member or for the funeral expenses of the husband, wife, child, or relative of a member ;

and, when any such law is in force, shall mean a friendly society as therein defined ;

“trade union” shall mean a trade union as defined by the Industrial Disputes Prevention Act 1909 or any amendment thereof.

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CHAPTER VII.

WINDING-UP OF UNREGISTERED COMPANIES.

203. Subject to the provisions of this Chapter any company association syndicate or partnership having a place of business in this Colony, which consists of more than seven members and is not a company to which Chapters I, II, and III apply, may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such a company, association, syndicate or partnership (hereinafter referred to as an “unregistered company”), with the following exceptions and additions :

Winding-up
of unregis-
tered
companies.

- (i) An unregistered company shall, for the purpose of determining the court having jurisdiction in the matter of the winding-up, be deemed to be registered in that district of the Colony where its principal place of business is situate; or if it has a principal place of business in more than one district of the Colony, then in each district of the Colony where it has a principal place of business; and the principal place of business situate in that district of the Colony in which proceedings are being instituted shall, for all the purposes of the winding-up be deemed to be the registered office of the company;
- (ii) No unregistered company shall be wound up under this Act voluntarily or subject to supervision;
- (iii) The circumstances in which an unregistered company may be wound up are as follows (that is to say):—
 - (a) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding-up its affairs;
 - (b) if the company is unable to pay its debts;
 - (c) if the Court is of opinion that it is just and equitable that the company should be wound up;

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(iv) An unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts :—

- (a) if a creditor, by cession or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary or some director, manager, or principal officer of the company, or by otherwise serving in such manner as the Court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor ;
- (b) if any action or other proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character of member, and notice in writing of the institution of the action or proceeding having been served on the company by leaving the same at its principal place of business, or by delivering it to the secretary, or some director, manager, or principal officer of the company, or by otherwise serving the same in such manner as the Court may approve or direct, the company has not within ten days after service of the notice paid, secured, or compounded for the debt or demand, or procured the action or proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the action or proceeding, and against all costs, damages, and expenses to be incurred by him by reason of the same ;
- (c) if execution or other process issued on a judgment decree or order obtained in any court in favour of a creditor against the company, or any member thereof as such, or any person authorized to be sued as nominal defendant on behalf of the

company, is returned unsatisfied by the sheriff or messenger with the endorsement that he has not found sufficient assets to satisfy the judgment, decree, or order, or that any assets found did not, upon sale, satisfy the execution or other process;

- (d) if it is otherwise proved to the satisfaction of the Court that the company is unable to pay its debts.

204. (1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs and expenses of winding-up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

Contributories in winding-up of unregistered company.

(2) In the event of the death or insolvency of any contributory, the provisions of this Act with respect to the legal representatives, heirs, and legatees of deceased contributories and to the trustees of insolvent contributories shall apply.

205. The provisions of this Act with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding-up and before the making of a winding-up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

Power of Court to stay or restrain proceedings.

206. Where an order has been made for winding-up an unregistered company, no action or proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

Actions stayed on winding-up order.

207. If an unregistered company has no power to sue and be sued in a common name, or if for any reason it appears expedient, the Court may

Directions as to property in certain cases.

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by the winding-up order, or by any subsequent order direct that all or any part of the property, immovable and movable (including rights of action) belonging to the company, or to trustees on its behalf, is to vest in the liquidator by his official name, and thereupon the property or the part thereof specified in the order shall vest accordingly; and the liquidator may, after giving such indemnity (if any) as the Court may direct, bring or defend in his official name any action or other legal proceeding relating to that property, or necessary to be brought or defended for the purpose of effectually winding-up the company and recovering its property.

Provisions of this Chapter cumulative.

208. The provisions of this Chapter with respect to unregistered companies shall be deemed to be in addition to and not in restriction of any provisions hereinbefore in this Act contained with respect to winding-up companies by the Court, and the Court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding-up companies registered under Chapter I; but an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Chapter.

CHAPTER VIII.

MISCELLANEOUS PROVISIONS.

Amalgamation schemes to be submitted to Minister.

209. (1) Three months prior to the date when any amalgamation scheme or portion thereof is to be submitted to any general meeting of a company that scheme shall be submitted to the Minister, and, unless it has been so submitted, the Registrar shall not register in his office any document which gives effect to the scheme or to any portion thereof.

(2) For the purposes of this section an amalgamation scheme shall mean a scheme under which any one or more companies will be dissolved and the undertaking or undertakings of the dissolved company or companies transferred to a new company, or to another company then existing with or without a change in the name of that

company, or a scheme under which the entire undertaking and assets of any company are transferred to another company.

210. If, in any proceeding under this Act against a director of a company for negligence or breach of trust, it appears to the court hearing the case that the director is or may be liable in respect of the negligence or breach of trust, but has acted honestly and reasonably, and ought fairly to be excused for the negligence or breach of trust, that court may relieve him either wholly or partly from his liability, on such terms as the court may think proper.

Power of Court to grant relief in certain cases.

211. (1) There shall be paid in respect of the several matters mentioned in the Second Schedule to this Act or in that Schedule as altered or added to under the powers of this section the several fees specified in such Schedule or in the alteration or addition thereto: All such fees shall be paid by means of revenue stamps which shall be duly defaced by the officer concerned with the particular matter.

Prescribed fees, forms and alterations thereof.

(2) The forms set forth in the Third Schedule to this Act, or forms as near thereto as the circumstances admit, shall be used in all matters to which those forms refer.

(3) The Minister may from time to time alter or add to the tables in the Second Schedule to this Act, but so that he does not increase the amount of any specific fee payable in accordance with that Schedule, and may alter or add to any of the forms in the Third Schedule to this Act or Table A.

The Minister may further from time to time make or alter a table of fees which shall be payable to a liquidator or special manager as remuneration and such a table of fees, when so made or altered, shall be deemed to form part of the Second Schedule to this Act.

(4) Any such table and form, as altered, and any added form shall be published in the *Gazette*, and thenceforth shall have the same force and effect as if it were included in one of the Schedules to this Act but no alteration in, or addition to, Table A shall affect any company registered before the publication of the alteration or addition,* as respects that company, any portion of Table A which applies to it.

* The words "or shall repeal" appear to have been inadvertently omitted immediately before the words "as respects that company".

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(5) Every alteration and addition made under the powers of this section shall be laid on the tables of both Houses of Parliament within seven days after the date of its publication in the *Gazette*, if Parliament be then in session, or if Parliament be not then in session, within seven days after the commencement of its next ensuing session.

Power to
judges to
make rules.

212. (1) The judges of the Supreme Court, may, from time to time, make, alter, or rescind rules concerning the procedure to be followed with respect to matters in which the Court is empowered under this Act to exercise jurisdiction.

(2) Every such rule and any alteration or rescission thereof shall be submitted to the Governor for approval, and if approved, the rule or the alteration or rescission thereof shall, when published in the *Gazette*, have full force and effect.

(3) The provisions of sub-section (5) of the last preceding section shall *mutatis mutandis* apply to every such rule, whether in regard to the making, the alteration, or the rescission thereof.

Office for
registration of
companies.

213. (1) For the purpose of the registration of companies under this Act, there shall be an office in Pretoria.

(2) The Governor may, from time to time, appoint an officer who shall be styled "Registrar of Companies" and such other officers and clerks as the Minister may think necessary for carrying on the registration of companies under this Act or for effectually exercising any other powers or jurisdiction or performing any duties assigned by this Act or any amendment thereof to the Registrar; and may from time to time make, alter, or rescind regulations, not inconsistent with this Act or any law for the time being relating to the Public Service, prescribing the duties of the Registrar.

(3) The office in existence at the commencement of this Act for registering companies shall be deemed to have been established under this section, and the registers of companies kept in such existing office shall be deemed to form part of the registers to be kept under this Act.

(4) Any person may inspect the documents kept by the Registrar on payment of the prescribed fees; and any person may require a

certificate of the incorporation of any company, or a copy or extract of any other document or part of any other document, to be certified by the Registrar, on payment for the certificate, certified copy, or extract, of the prescribed fee.

214. Any notice, order, or other document which by this Act may be or is required to be served upon a company may be served by leaving the same at, or sending it by prepaid registered post to—

(a) the registered office, in the case of a company registered under Chapter I or of an existing company;

(b) one of the persons at the address lodged with the Registrar in respect of such person, in the case of a foreign company;

(c) the principal place of business in this Colony, in the case of an unregistered company.

215. (1) In all proceedings under this Act, all courts, judges, and persons acting judicially, and all officers, judicial or ministerial, of any court, or employed in enforcing the process of any court, may take judicial notice of the signature of any officer of the Supreme Court, the Witwatersrand High Court, or any Circuit Court, and shall take judicial notice of the official seal or stamp of any of such courts appended to or impressed on any document, made, signed, or issued under this Act or an official copy thereof.

(2) All courts, judges, commissioners, and persons acting judicially may take judicial notice of the seal, or stamp, or signature appended or subscribed (as the case may be) to an affidavit lawfully sworn or solemn declaration lawfully made for the purposes of this Act.

216. (1) If any person in any statement, return, report, certificate, balance-sheet, or other document required by or for the purposes of any of the provisions of this Act wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment without the option of a fine for a period not exceeding one year.

(2) If any person, on examination on oath authorized under this Act, or in any affidavit solemn declaration or deposition in or about any matter arising under this Act, wilfully and corruptly gives false evidence, he shall be guilty

Service of documents.

Judicial notice of signature of officers.

Penalties for false statements and false oaths.

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Penalty for
improper use
of word
"Limited."

of an offence and liable on conviction to the penalties prescribed by law for perjury.

217. Any person or persons trading or carrying on business under a name or title of which the word "Limited" is the last word shall, unless duly incorporated with limited liability, be liable to a fine not exceeding five pounds for every day upon which that name or title has been used.

Officers liable
for defaults by
company.

218. Whenever under this Act a company is liable to any penalty for a default or offence, proceedings may be instituted for that default or offence against any director, manager, secretary, or other officer of the company, and the court having jurisdiction in respect of the default or offence may convict and sentence therefor any person against whom the proceedings are so instituted, unless he shall satisfy that court that the default or offence was made or committed without his knowledge, authority, or permission.

Offences and
penalties.

219. Every company or person charged with a default or offence under this Act may be prosecuted before the court of resident magistrate having jurisdiction at the place where the default is alleged to have been made or the offence to have been committed; and if the default or offence is punishable by a fine, that court of resident magistrate shall have special jurisdiction to impose the maximum fine prescribed or, in a case of a continuing default or offence, the aggregate amount of the maximum fines.

Imprisonment
in default of
payment of
fines.

220. Whenever under the provisions of this Act any fine is imposed for a default or offence, and the person convicted does not forthwith pay the fine, the court imposing the same may, without prejudice to any steps that may be lawfully taken for levying such fine by distress and sale of movable property belonging to that person, order the imprisonment of that person for a period not exceeding one month if the fine does not exceed five pounds, for a period not exceeding three months if the fine exceeds five pounds and does not exceed fifty pounds, and for a period not exceeding one year if the fine exceeds fifty pounds, and a court of resident magistrate imposing the fine shall have special jurisdiction to impose, in default of payment thereof, the maximum period of imprisonment.

Title and date
of operation
of Act.

221. This Act may be cited for all purposes as the Companies Act 1909 and shall come into operation on the first day of January 1910.

First Schedule.**Act No. 31
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LAWS AND RESOLUTIONS REPEALED.

Number and Year.	Title (if any) or Subject.	Extent of Repeal.
Law No. 5 of 1874	The Limited Liability Companies Law	The whole.
Law No. 6 of 1874	For the incorporation of companies	The whole.
Executive Council Resolution No. 786 of 1889	Rules respecting the registration of home companies whose statutes contain provisions in conflict with the laws and interests of the country	The whole.
Executive Council Resolution No. 746 of 1889	No registration of foreign companies unless incorporated according to law	The whole.
Law No. 1 of 1891	Supplement to Law No. 5 of 1874 with reference to the limiting of the liability of the members of certain companies	The whole.
Executive Council Resolution No. 897 of 1892	Issue of shares to bearer by companies with limited liability	The whole.
First Volksraad Resolution No. 1331 of 1892		So much as gave authority to the Executive Council to pass the resolution No. 897 of 1892.
Second Volksraad Resolution No. 856 of 1893	Amendment of Art. 17 of Law No. 5 of 1874	The whole.
Executive Council Resolution embodied and adopted by last-named Second Volksraad Resolution	Ditto.	The whole.
First Volksraad Resolution No. 1219 of 1893	Confirmation of Second Volksraad Resolution No. 856 of 1893	The whole.
Law No. 1 of 1894	On the liquidation of companies	The whole.
Second Volksraad Resolution No. 98 of 1894	Extension of Executive Council Resolution No. 897 of 1892 to companies incorporated and registered under Law No. 6 of 1874	The whole.
First Volksraad Resolution No. 275 of 1894	Noting and accepting Second Volksraad Resolution No. 89 of 1894	The whole.
Law No. 22 of 1894	Amendment of certain provisions of laws become necessary in consequence of First Volksraad Resolution Art. 1213 of 1893 in the matter of the responsibility of head officials	Article <i>twenty-one</i> .
Ordinance No. 56 of 1903	Societies and Associations Incorporation Ordinance 1903	The whole.
Ordinance No. 30 of 1904	The Limited Liability Companies Law Amendment Ordinance 1904	The whole.

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Second Schedule.

First Table.

TABLE OF FEES TO BE PAID BY A COMPANY (OTHER THAN A FOREIGN COMPANY) UNDER THIS ACT.

	£	s.	d.
(1) For registration of original memorandum of association ...	1	0	0
(2) For registration of an altered memorandum of association or a substituted memorandum and articles of association and the Order of Court confirming the same	0	10	0
(3) For registration of reduction of the capital of a Company and the Order of Court confirming the same... ..	0	10	0
(4) For registration of change of name of a Company	0	10	0
(5) For registering any document hereby required or authorized to be registered other than the above	0	5	0
(6) For making any record of any fact hereby authorized or required to be recorded by the Registrar	0	5	0

Second Table.

TABLE OF FEES TO BE PAID BY A FOREIGN COMPANY UNDER THIS ACT.

	£	s.	d.
(1) For registration of the charter, statutes, or memorandum and Articles of the Company, or other instrument constituting or defining the Constitution of the Company	1	0	0
(2) For registration of any alteration in any such instrument ...	0	10	0
(3) Upon filing annual statement mentioned in sub-section (2) of section <i>one hundred and ninety-eight</i>	0	5	0

Third Table.

MISCELLANEOUS FEES.

TABLE OF FEES TO BE PAID IN RESPECT OF ANY COMPANY UNDER THIS ACT.

	£	s.	d.
(1) For any certificate issued by the Registrar	0	7	6
(2) For inspection of any documents filed with the Registrar ...	0	2	6
(3) For inspection of the registers kept by the Registrar	0	1	0
(4) For altering address in register	0	5	0

Third Schedule.

Form A.

MEMORANDUM OF ASSOCIATION OF A LIMITED COMPANY.

1. The name of the Company is "The Derdepoort (Deep) Mining Company Limited."
2. The registered office of the company will be situate in The Transvaal.
3. The objects for which the company is established are "To purchase take on lease or otherwise acquire any mines mining rights and metalliferous land in The Transvaal and any interest therein to explore work exercise develop and turn to account the same and to do all such other things as are incidental or conducive to the attainment of the above objects".
4. The liability of the members is limited.
5. The share capital of the company is one hundred thousand pounds divided into one hundred thousand shares of one pound each.

We the several persons whose names and addresses are subscribed are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

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Names addresses and descriptions of subscribers.	No. of shares taken by each subscriber.
1. John Jones of merchant	200
2. Andries de Villiers of farmer	25
3. Peter Grant of prospector	30
4. Jacobus Steenkamp of general agent	40
5. James Murphy of financier	15
6. Paulus Oosthuizen of mining engineer	5
7. William Smith of attorney	10
Total shares taken	325

Dated the day of 19

Witnesses to the above signatures :

A. B. Church Street Pretoria.
C. D. Market Street Pretoria.

Form B.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY HAVING A SHARE CAPITAL.

Memorandum of Association.

1st. The name of the company is "The Patent Stereotype Company".

2nd. The registered office of the company will be situate in Johannesburg.

3rd. The objects for which the company is established are "The working of a patent method of founding and casting stereotype plates of which method John Smith of Johannesburg is the sole patentee".

We the several persons whose names are subscribed are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names addresses and description of subscribers.	No. of shares taken by each subscriber.
1. John Jones of merchant	3
2. Andries de Villiers of farmer	2
3. Peter Grant of prospector	1
4. Jacobus Steenkamp of general agent	2
5. James Murphy of financier	2
6. Paulus Oosthuizen of mining engineer	1
7. William Smith of attorney	1
Total shares taken	12

Dated the day of 19

Witnesses to the above signatures :

A. B. No. 67 Commissioner Street Johannesburg.
C. D. No. 38 President Street Johannesburg.

Act No. 31
of 1909.ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING MEMORANDUM
OF ASSOCIATION.

1. The share capital of the company is two thousand pounds divided into twenty shares of one hundred pounds each.

2. All the Articles of Table A in the Fourth Schedule to the Companies Act 1909 shall, so far as they are applicable to an unlimited company, be deemed to be incorporated with these articles and to apply to the company.

Names addresses and description of subscribers.

- | | |
|---------------------------|------------------|
| 1. John Jones of | merchant. |
| 2. Andries de Villiers of | farmer. |
| 3. Peter Grant of | prospector. |
| 4. Jacobus Steenkamp of | general agent. |
| 5. James Murphy of | financier. |
| 6. Paulus Oosthuizen of | mining engineer. |
| 7. William Smith of | attorney. |

Dated the day of 19

Witnesses to the above signatures :

A. B. No. 67 Commissioner Street Johannesburg.
C. D. No. 38 President Street Johannesburg.

Form C.

(As required by Chapter II of the Act.)

SUMMARY OF SHARE CAPITAL AND SHARES of the		Company, Limited,
made up to the	day of	19 (being the fourteenth
day after the date of the first ordinary general	meeting in	19)
Nominal capital £	divided into*	{ shares of £ each.
Total number of shares taken up* to the	day of	19 (which number must
agree with the total shown in the list as held	by existing members)	{ shares of £ each.
Number of shares issued subject to pay-	ment wholly in cash	{
Number of shares issued as fully paid up	for a consideration other than cash	{
Number of shares issued as partly paid up	to the extent of per share for a	{
consideration other than cash	... ..	{
† There has been called up on each of		shares, £
† There has been called up † on each of		shares, £
† There has been called up on each of		shares, £
‡ Total amount of calls received, including pay-	ments on application and allotment	£
Total amount (if any) agreed to be considered as	paid on shares which have been issued	
as fully paid (for a consideration other than	cash)	£
Total amount (if any) agreed to be considered as	paid on shares which have been issued	
as fully paid up to the extent of per share...		£
Total amount of calls unpaid	... ..	£
Total amount (if any) of sums paid by way of	commission in respect of shares or debentures	
or allowed by way of discount since date of	last summary	£
Total amount (if any) paid on §	shares	
forfeited		£

* When there are shares of different kinds or amounts (*e.g.* preference and ordinary or £10 or £5) state the numbers and nominal values separately.

† Where various amounts have been called or there are shares of different kinds state them separately.

‡ Include what has been received on forfeited as well as on existing shares.

§ State the aggregate number of shares forfeited (if any).

Total amount of shares and stock for which share warrants are outstanding	£
Total amount of share warrants issued and surrendered respectively since date of last summary	£
Number of shares or amount of stock comprised in each share warrant	£
Total amount of debt due from the company in respect of all mortgages and charges ...	£

Statement in the form of a balance-sheet containing the particulars of the capital liabilities and assets of the company.

The Return must be signed at the end by the manager or secretary of the company.

Presented for filing by

LIST OF PERSONS HOLDING SHARES not fully paid up in the
Company Limited on the day of 19 and of
persons who have held shares therein not fully paid up at any time
during the year immediately preceding the said date showing their
names and addresses and an account of the shares so held.

Folio in Register Ledger containing particulars.	NAMES AND ADDRESSES.			ACCOUNT OF SHARES NOT FULLY PAID UP.				Remarks.	
	Surname.	Christian Name.	Address.	* Number of Shares held by existing Members at date of return.	†Particulars of Shares transferred during the preceding year by persons who are still Members.		‡Particulars of Shares transferred during the preceding year by persons who have ceased to be Members.		
					† Number.	Date of Registration of Transfer.	† Number.		Date of Registration of Transfer.

* The aggregate number of shares held and not the distinctive numbers must be stated and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

† When the shares are of different classes these columns may be subdivided so that the number of each class held or transferred may be shown separately.

‡ The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the transferee but the name of the transferee may be inserted in the "Remarks" column immediately opposite the particulars of each transfer.

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NAMES AND ADDRESSES of the persons who are the directors of the
Limited on the day of 19 .

Names.	Addresses.

(Signature).....

(State whether manager or secretary).....

Fourth Schedule.

Table A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Preliminary.

1. In these regulations, unless the context otherwise requires, expressions defined in the Companies Act, 1909, or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; the expression "foreign committee" shall mean any such committee as is appointed under article *eighty-nine* of these regulations and words importing the singular shall include the plural, and *vice versa*, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

Business.

2. The directors shall have regard to the restrictions on the commencement of business imposed by section, *eighty-five* of the Companies Act, 1909, if, and so far as, those restrictions are binding upon the company.

Shares and Certificates of Shares.

3. Subject to the provisions, if any, in that behalf of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such, preferred, deferred, or other special rights, or such restrictions, whether in regard to dividend, voting, return of capital or otherwise, as the company may from time to time by special resolution determine.

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings, and sections *sixty-three* and *sixty-five* of the Act whenever applicable, shall *mutatis mutandis* apply but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

5. No share shall be offered to the public for subscription except upon the terms that the amount payable on application shall be at least ten per centum of the nominal amount of the share; and the directors shall, as regards any allotment of shares, duly comply with such of the provisions of sections *eighty-three* and *eighty-six* of the Companies Act, 1909, as may be applicable thereto.

6. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate specifying the share or shares held by him and the amount paid up thereon.

7. If a share certificate is defaced, lost, or destroyed, it may be renewed on payment of such fee, if any, not exceeding one shilling, and on such terms, if any, as to evidence and indemnity as the directors think fit.

8. Share certificates shall be issued under the authority of the directors, or the foreign committee when authorized thereto by resolution of the directors, in such manner and form as the directors shall from time to time prescribe. All shares shall be numbered in numerical progression beginning with the number one, and each share shall be distinguished by its appropriate number.

9. Each member shall be entitled to one certificate for all the shares registered in his name, or to several certificates, each for a part of such shares. Every share certificate shall specify the number of shares in respect of which it is issued, and the amount paid up thereon. Every original member shall be entitled to one share certificate *gratis* but for every subsequent certificate the directors may make such charge as from time to time they may think fit.

10. A certificate for shares registered in the names of two or more persons shall be delivered to the person first named in the register as a holder thereof, and delivery of a certificate for a share to that person shall be a sufficient delivery to all joint holders of that share.

11. No part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

Lien.

12. The company shall have a lien on every share (not being a fully-paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of such share and the company shall also have a lien on all shares (other than fully-paid shares) standing registered in the name of a single person, for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. The company's lien, if any, on a share shall extend to all dividends payable thereon.

13. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists, is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled by reason of his death or insolvency to the share.

14. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

Calls on Shares.

15. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares; provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

16. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

17. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof the person from whom the sum is due shall pay interest upon the sum at the rate of ten pounds per centum per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of such interest wholly or in part.

18. The provisions of these regulations as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a

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share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

19. The directors may make arrangements on the issue of shares for a difference between classes of holders in the amount of calls to be paid and in the times of payment.

20. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six per centum) as may be agreed upon between the member paying the sum in advance and the directors. If the whole amount unpaid on any shares be paid, the directors may issue those shares as fully paid up.

Transfer and Transmission of Shares.

21. The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

22. Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve:

I, A.B. of _____ in consideration of the sum of £ _____ paid to me by C.D. of _____ (hereinafter called "the said transferee") do hereby transfer to the said transferee the share [or shares] numbered _____ in the undertaking called the _____ Company Limited, to hold unto the said transferee, his legal representatives and assigns, subject to the several conditions on which I held the same at the time of the execution thereof: and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid. As witness our hands the day of _____

Witness to the signatures of, etc.

23. The directors may decline to register any transfer of shares, not being fully-paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognise any instrument of transfer unless

- (a) a fee not exceeding two shillings and sixpence is paid to the company in respect thereof, and
- (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

24. Every instrument of transfer shall be left at a transfer office of the company at which it is presented for registration, accompanied by a certificate of the shares to be transferred. Every power of attorney given by a shareholder authorizing the transfer of shares, shall, when lodged produced or exhibited to the company or any of its proper officers, be deemed as between the company and the donor of the power to continue and remain in full force and effect, and the company may allow that power to be acted upon until such time as express notice in writing of its revocation has been lodged at such of the company's transfer offices as the power was lodged, produced, or exhibited as aforesaid. The company shall not be bound to allow the exercise of any act or matter by an agent for a shareholder unless a duly certified copy of that agent's authority be produced and lodged with the company.

25. The legal representatives of a deceased sole holder of a share shall be the only persons recognised by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the legal representatives of the deceased survivor shall be the only persons recognised by the company as having any title to the share.

26. Any person becoming entitled to a share in consequence of the death or insolvency of a member shall, upon such evidence being produced as may

from time to time be required by the directors, have the right, either to be registered as a member in respect of the share or instead of being registered himself, to make such transfer of the share as the deceased or insolvent could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or insolvent before the death or insolvency, but nothing herein contained shall release the estate of a deceased joint shareholder from any liability in respect of shares jointly held by him.

27. The parent or guardian of a minor and the *curator bonis* of a lunatic member and any person becoming entitled to shares in consequence of the death, insolvency, or arrangement with creditors, of any member or the marriage of any female member or by any lawful means other than by transfer in accordance with these regulations, may, upon producing such evidence as sustains the character in respect of which he proposes to act under this regulation, or of his title, as the directors think sufficient, transfer those shares to himself or any other person, subject always to the regulations as to transfer hereinbefore contained.

This regulation is hereinafter referred to as the "transmission clause".

28. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Forfeiture of Shares.

29. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

30. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

31. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

32. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

33. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company shall have received payment in full of the nominal amount of the shares.

34. When any share shall have been so forfeited notice of the resolution shall be given to the person in whose name the shares stood prior to the forfeiture, and an entry of the forfeiture with the date thereof shall forthwith be made in the register.

35. An affidavit or solemn declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and such declaration, and the receipt of the company for the consideration (if any) given for the share on the sale or disposition thereof shall constitute a good title to such share and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

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36. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time whether, on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of Shares into Stock.

37. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock and may with the like sanction reconvert any stock into paid-up shares of any denomination.

38. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of such minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

39. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges, and advantages as regards dividends, voting at meetings of the company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not if existing in shares, have conferred that privilege or advantage.

40. Such of the regulations of the company (other than those relating to share warrants) as are applicable to paid-up shares shall apply to stock, and the word "share" and "shareholder" therein shall include "stock" and "stock-holder".

Share Warrants.

41. The company may issue share warrants, and accordingly the directors or, if so authorized any foreign committee, may, in their discretion, with respect to any share which is fully paid up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence (if any) as the directors or foreign committee, (as the case may be) may from time to time require as to the identity of the person signing the request, and on receiving the certificate, (if any), of the share, and the amount of the stamp duty (if any) on the warrant and such fee as the directors may from time to time require, issue a warrant, duly stamped, when stamp duty is payable stating that the bearer of the warrant is entitled to the shares therein specified and may provide by coupons or otherwise for the payment of dividends, or other moneys, on the shares included in the warrant.

42. A share warrant shall entitle the bearer to the shares included in it and the shares shall be transferred by the delivery of the share warrant, and the provisions of the regulations of the company with respect to transfer and transmission of shares shall not apply thereto.

43. The bearer of a share warrant shall, on surrender of a warrant to the company for cancellation, and on payment of such sum as the directors may from time to time prescribe, be entitled to have his name entered as a member in the register of members in respect of the shares included in the warrant.

44. The bearer of a share warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited the depositor shall have the same right of signing a requisition for calling a meeting of the company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiration of two clear days from the time of the deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognised as depositor of the share warrant. The company shall, on two days' written notice return the deposited share warrant to the depositor.

45. Subject as herein otherwise expressly provided no person shall as bearer of a share warrant, sign a requisition for calling a meeting of the company, or attend, or vote, or exercise any other privilege of a member at a meeting of the company, or be entitled to receive any notices from the

company ; but the bearer of a share warrant shall be entitled in all other respects to the same privileges and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the company.

46. The directors may from time to time make rules as to the terms on which (if they shall think fit) a new share warrant or coupon may be issued by way of renewal in case of defacement, loss, or destruction.

Alteration of Capital.

47. The directors may, with the sanction of an extraordinary resolution of the company, increase the capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

48. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of share capital, and subject also to the provisions of section *eighty-three* of the Companies Act, 1909, all new shares shall before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

49. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original capital.

50. The company may, by special resolution—

- (a) consolidate and divide its share capital into shares of larger amount than its existing shares ;
- (b) by sub-division of its existing shares or, any of them, divide the whole, or any part, of its share capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of paragraph (d) of sub-section (1) of section *thirty-nine* of the Companies Act, 1909 ;
- (c) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person ;
- (d) reduce its share capital in any manner and with, and subject to, any incident authorized, and consent required, by law.

Borrowing Powers.

51. The directors may in their discretion, from time to time, raise or borrow from the members or other persons any sum or sums of money for the purposes of the company ; provided that the moneys so raised or borrowed shall not without the sanction of a special resolution exceed one half the issued share capital for the time being of the company.

52. The directors may raise or secure the repayment of such moneys in such manner and upon such terms and conditions in all respects as they think fit, and in particular by the execution of mortgage bonds, the issue of debentures, or debenture stock of the company charged upon all or any part of the property and rights of the company, both present and future, including its uncalled capital.

53. If any uncalled capital of the company is included in or charged by any mortgage bond or other security, the directors may delegate to any person as trustee for the person in whose favour the mortgage bond or security is executed, the power to make calls on members in respect of such uncalled capital, and to sue in the name of the company or otherwise for the recovery of the moneys becoming due in respect of calls so made and to give valid receipts for such moneys, and the power so delegated shall subsist during the continuance of the mortgage bond or security, notwithstanding any change in the directors, and shall be assignable if expressed so to be.

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54. The statutory general meeting of the company shall be held within the period required by section *sixty-two* of the Companies Act, 1909.

55. A general meeting shall be held once in every year at such time and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

56. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

57. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists as provided by and subject to the provisions of section *sixty-three* of the Companies Act, 1909. If at any time there shall not be within The Transvaal sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Proceedings at General Meeting.

58. Subject to the provisions of section *sixty-five* of the Companies Act 1909 seven days' notice at the least (exclusive of the day on which the notice is served, or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting and, in case of special business, the general nature of such business shall be given in manner hereinafter mentioned, or in such other manner, (if any), as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

59. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

60. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, a person or persons entitled under these regulations to vote and holding not less than one-sixtieth of the share capital represented at the meeting and personally present at the meeting shall be a quorum.

61. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, or, if that day be a public holiday, to the next succeeding day other than a public holiday, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

62. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

63. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

64. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished

at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

65. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded, in case the resolution be proposed as a special or extraordinary resolution by a person or persons entitled under these regulations to vote and holding not less than one-sixtieth of the share capital represented at the meeting and, unless a poll is so demanded a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution.

66. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. In computing the majority on the poll regard shall be had to the number of votes to which each member is entitled under these regulations. Scrutineers shall be elected to declare the result of the poll, and their decision, which shall be given by the chairman of the meeting, shall be deemed to be the resolution of the meeting at which the poll is demanded.

67. In the case of an equality of votes, whether on a show of hands, or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.

68. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.

Votes of Members.

69. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

70. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

71. The parent or guardian of a minor, and the *curator bonis* of a lunatic member, and also any person entitled under the transmission clause to transfer any shares, may vote at any general meeting in respect thereof in the same manner as if he were the registered holder of those shares provided that forty-eight hours at least before the time of holding the meeting at which he proposes to vote he shall have satisfied the directors that he is such parent, guardian or *curator* or that he is entitled under the transmission clause to transfer those shares, or that the directors have previously admitted his right to vote in respect of those shares. Several executors of a deceased member in whose name shares stand in the register shall, for the purposes of this regulation be deemed joint holders of those shares.

72. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

73. On a poll votes may be given either personally or by proxy.

74. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his agent duly authorized in writing, or, if the appointor is a corporate body, under the hand of an officer or agent authorized by the body. No person shall act as a proxy unless either he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy, or he is appointed to act at that meeting as proxy for a corporate body. The holder of a general or special power of attorney given by a shareholder shall be entitled to vote, if duly authorized under that power to attend and take part in the meetings and proceedings of the company, whether or not he be himself a shareholder in the company.

said Acts, and to such regulations being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

84. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term, and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way, and partly in another) as they may think fit and a director so appointed shall not, while holding such office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors; but his appointment shall be subject to determination *ipso facto* if he shall cease from any cause to be a director, or if the company in general meeting shall resolve that his tenure of the office of managing director or manager be determined.

85. The directors may from time to time entrust to or confer upon a managing director or manager for the time being such of the powers and authorities vested in them, as they may think fit, and may confer such powers and authorities for such time and to be exercised for such objects and purposes and upon such terms and conditions and with such restrictions as they may think expedient; and they may confer such powers and authorities either collaterally or to the exclusion of, and in substitution for, all or any of the powers and authorities of the directors in that behalf and may from time to time revoke or vary all or any of such powers and authorities.

86. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed one half the issued share capital of the company without the sanction of the company in general meeting.

87. The directors shall duly comply with the provisions of the Companies Act 1909, or any statutory modification thereof for the time being in force, and in particular the provisions in regard to keeping a register of the directors, and in regard to sending to the Registrar of Companies an annual list of members, and a summary of particulars relating thereto, and notice of any consolidation or increase of share capital, or conversion of shares into stock, and copies of special resolutions and a copy of the register of directors and notifications of any changes therein.

88. The directors shall cause minutes to be made in books provided for the purpose

- (a) of all appointments of officers made by the directors;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

Foreign Committees.

89. The directors may from time to time appoint persons resident in a foreign country to be a foreign committee for the company in that country and may appoint transfer offices of the company in any foreign country and close the same at their discretion and may appoint and remove agents to represent the company in a foreign country for the issue, sub-division, and transmission of shares of that company, subject to the provisions of these regulations and for such other purposes as the directors may, subject to these regulations, determine. The directors may further give to the members of a foreign committee or such agents the power to appoint alternate committee men or substituted agents to act during their absence and remove such alternate committee men and substituted agents and appoint others or themselves again to act for the company and may grant to such committee men or agents the power to appoint other persons as co-committee-men or joint agents.

90. The directors may act on a foreign committee whenever temporarily in the foreign country in which the committee is appointed and may take part in the proceedings of such committee and have the same rights and privileges as any member of the committee permanently resident in that foreign country.

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91. A foreign committee may—

- (a) appoint a transfer office of the company in the foreign country for which it is appointed and pay the rent and other expenses connected therewith ;
- (b) engage and at their discretion remove or suspend a secretary, clerks, and servants in connection with the business of the company in a foreign country for which it is appointed and determine their duties and pay their salaries as fixed by the directors of the company ;
- (c) execute and sign transfers of shares in the foreign country for which it is appointed and do any act or thing necessary for effecting the transmission of such shares ;
- (d) issue and sign new certificates relating to shares transferred or to be transferred at the transfer office of the country for which the committee is appointed, replace any existing share certificates, subdivide shares, or replace defaced or worn out certificates upon production thereof to the committee and if any such certificate or any cheque, dividend warrant, or other document be lost or destroyed, the committee may upon proof to its satisfaction of the loss or destruction and on receiving such indemnity and giving such advertisement as it deems adequate, issue and sign a new certificate, dividend warrant, cheque, or other document in lieu thereof. A foreign committee may charge fees and expenses in respect of all or any of the acts mentioned in this paragraph which may from time to time be payable under these regulations and may by its committee or its secretary give valid receipts for such fees. Every certificate relating to shares transferred at the transfer office in the country for which the committee is appointed shall be signed by two members of that committee and countersigned by its secretary or like officer ;
- (e) issue shares and certificates therefor when thereto authorized by resolution of the board of directors in such manner or form as the directors may from time to time prescribe, subject to the provisions of these regulations ;
- (f) do in the name of and on behalf of the company all such acts and things not specifically mentioned in these regulations as may in the judgment of the committee be necessary or convenient for the exercise of any of the committee's powers.

92. Each member of a foreign committee may appoint an alternative committee man to act with full power during his own absence or inability to act, provided the appointment be confirmed by the foreign committee.

93. It shall not be necessary for a member of a foreign committee to be a shareholder of the company.

94. The meetings, proceedings, and acts of a foreign committee shall be governed by the provisions of these regulations relating to meetings, proceedings, and acts of directors so far as the same are applicable and are not superseded by any express powers vested from time to time in the foreign committee by the directors.

Disqualifications of Directors.

95. The office of director shall be vacated :—

- if he gives one month's notice in writing to the board of the directors of his intention to resign office and his resignation be accepted by them ;
- if he ceases to be a director by virtue of section *seventy-one* of the Companies Act 1909 ; or
- if he holds any other office of profit under the company except that of managing director or manager ; or
- if he becomes insolvent or assigns his estate for the benefit of or compounds with his creditors ; or
- if he is found lunatic or becomes of unsound mind ; or
- if he is absent from four consecutive meetings of the directors without special leave of absence given by the board provided all such four meetings be not held within a period of thirty days ; provided further that the board may not grant such special leave for more than six consecutive months unless the director is to be absent on the business of the company : this sub-clause shall not apply to a director represented by an alternate director ;
- if he is concerned or participates in the profits of any contract with the company.

Provided that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with or done any work for the company of which he is director if he has fully disclosed to the board of directors his interest in such contract or work ; but a director shall not vote in respect of such contract or work, and if he does so vote his vote shall not be counted.

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Rotation of Directors.

96. At the first ordinary meeting of the company the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year one-third of the directors for the time being, or if their number is not three or a multiple of three, then the number nearest to one-third, shall retire from office.

97. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall, unless they otherwise agree among themselves, be determined by lot.

98. A retiring director shall be eligible for re-election.

99. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.

100. If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week at the same time and place, and if at such adjourned meeting the places of the vacating directors are not filled up the vacating directors, or such of them as have not had their places filled up shall be deemed to have been re-elected at such adjourned meeting.

101. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

102. Unless the shareholders otherwise determine in general meeting any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

103. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

104. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead ; the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

105. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

106. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall (when the number of directors exceeds three) be three.

107. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

108. The directors may elect a chairman of their meetings and determine the period for which he is to hold office ; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

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109. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

110. A committee may elect a chairman of their meetings: if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

111. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

112. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends Bonus and Reserve.

113. The company in general meeting may declare dividends.

114. The directors may from time to time pay to the members such *interim* dividends as appear to the directors to be justified by the profits of the company.

115. No dividend shall be paid otherwise than out of profits.

116. Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

117. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves, which shall, at the discretion of the directors be applicable for meeting contingencies or for equalising dividends, or for any other purpose to which the profits of the company may be properly applied and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

118. If several persons are registered as joint holders of any share any one of them may give effectual receipts for any dividend payable on the share.

119. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

120. The directors may deduct from the dividends or bonus payable to any member all such claims or sums of money which may be due from time to time to the company on account of calls or otherwise. No dividend or bonus shall bear interest against the company, and any dividend or bonus remaining unclaimed for a period of five years from this declaration may, provided notice of the declaration has been given by advertisement to the person entitled thereto and sent to his last registered address, be forfeited by resolution of the directors for the benefit of the company.

121. Every dividend or bonus may be paid by cheque, warrant, coupon, or otherwise as the directors may from time to time determine, and shall, if paid otherwise than by coupon, either be sent by post to the last registered address of the member entitled thereto or be given to him personally, and the receipt or endorsement on the cheque or warrant of the person whose name appears in the register as the shareholder, or his duly authorised agent or the surrender of any coupon shall be a good discharge to the company in respect thereof.

122. The company shall not be responsible for the loss in transmission of any cheque, warrant, coupon, or other document sent through the post to the registered address of any member, whether or not it was so sent at his request.

Accounts.

123. The directors shall cause true accounts to be kept—
of the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place; and
of the assets and liabilities of the company.

124. The books of account shall be kept at the registered office of the company or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

125. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorized by the directors or by the company in general meeting.

126. Once at least in every year the directors shall lay before the company, in general meeting a profit and loss account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.

127. A balance sheet shall be made out in every year and laid before the company in general meeting made up to a date not more than six months before such meeting. The balance sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount, if any, which they propose to carry to a reserve fund.

128. A copy of the balance sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

Audit.

129. Auditors shall be appointed and their duties regulated in accordance with sections *ninety-nine* and *one hundred* of the Companies Act 1909 or any statutory modification thereof for the time being in force.

Notices.

130. A notice may be given by the company to any member either by advertisement or personally, or by sending it through the post in a prepaid letter addressed to such member at his registered address, or (if he has no registered address in The Transvaal) at the address (if any) within The Transvaal supplied by him to the company for the giving of notices to him. Any notice which may be given by advertisement shall be inserted in the *Gazette* and in such newspapers as the directors may from time to time determine.

131. Whenever a notice is to be given personally or sent by post, the notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register in respect of the share.

132. Whenever a notice is to be given personally or sent by post the notice may be given by the company to the persons entitled to a share in consequence of the death or insolvency of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the insolvent or by any like description at the address (if any) in The Transvaal supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

133. Notice of every general meeting shall be given in some manner hereinbefore authorized to (a) every member of the company (including bearers of share warrants) except, in the case of notices to be given personally or sent by post, those members who (having no registered address within The Transvaal) have not supplied to the company an address within The Transvaal for the giving of notices to them and also to (b) every person entitled to a share in consequence of the death or insolvency of a member who, but for his death or insolvency, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meeting.

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134. Any notice, if given by post, shall be deemed to have been served at the time when the letter containing the same is put into the Post Office, and any notice given by advertisement shall be deemed to have been given on the day upon which the advertisement was published in the *Gazette*, and in proving the giving of the notice sent by post it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

135. A notice given to any member shall be binding on all persons claiming on death, or by any transmission of his interests.

136. The signature to any notice given by the company may be written or printed, or partly written and partly printed.

137. When a given number of days' notice or notice extending over any other period is required to be given, the day of service shall be counted in such number of days or period.

MISCELLANEOUS.

138. If the provisions of these regulations are in any way inconsistent with the provisions of the Companies Act 1909 or any other law the provisions of that Act or other law shall prevail, and these regulations shall be read in all respects subject to that Act or that other law.

Fifth Schedule.

THE COMPANIES ACT 1909.
Statement in lieu of prospectus lodged by ... Limited
pursuant to section *eighty* of the Companies Act 1909.
Presented for filing by

THE COMPANIES ACT 1909.

LIMITED.

STATEMENT IN LIEU OF PROSPECTUS.

The nominal capital of the company	£	
Divided into	Shares of £	each.
	"	"
	"	"
	"	"
Names descriptions and addresses of directors or proposed directors.		
Minimum subscription (if any) fixed by the memorandum or articles of association on which the company may proceed to allotment.		
Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.	1. shares of £	paid.
	2. shares upon which £	
	per share credited as paid.	
	3. debenture	£
The consideration for the intended issue of such shares and debentures.	4. Consideration.	
Names and addresses of * vendors of property purchased or acquired, or proposed to be † purchased or acquired by the company.		
Amount (in cash shares or debentures) payable to each separate vendor.		

Amount (if any) paid or payable (in cash or shares of debentures) for any such property specifying amount (if any) paid or payable for good-will.	Total purchase price £ _____ Cash £ _____ Shares £ _____ Debentures £ _____ Good-will £ _____ £ _____
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company or Rate of such commission	Amount paid Amount payable Rate per cent.
Estimated amount of preliminary expenses.	£ _____
Amount paid or intended to be paid to any promoter. Consideration for such payment ...	Name of promoter Amount £ _____ Consideration :
Dates of and parties to every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the filing of this statement).	
Time and place at which such contracts or copies thereof may be inspected.	
Names and addresses of the auditors of the company.	
Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company or where the interest of such a director consists in being a member of a partnership the nature and extent of the interest of the partnership with a statement of all sums paid or agreed to be paid to him or to the partnership in cash or shares or otherwise by any person either to induce him to become or to qualify him as a director or otherwise for services rendered by him or by the partnership in connection with the promotion or formation of the company.	

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Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance sheets or reports of the auditors or other reports.

Nature of the provisions.

* For definition of vendor *see* section *seventy-nine* (2) of the Companies Act 1909.

† *See* section *seventy-nine* (3) of the Companies Act 1909.

(Signature of the persons above named as directors or proposed directors or of their agents authorized in writing.)

Sixth Schedule.

MEETINGS OF CREDITORS AND CONTRIBUTORIES.

1. The meetings of creditors and contributories shall be held within twenty-one days, or if a special manager has been appointed then within one month, after the date of the winding-up order, or within such further time as the Court may approve.

2. The Master shall summon the meetings by giving not less than seven days' notice of the time and place thereof in the *Gazette* and in a local paper; and thereupon the liquidator shall send by post to every person appearing by the company's books to be a creditor of the company notice of the meeting of creditors, and to every person appearing from the company's books or otherwise to be a contributory of the company, notice of the meeting of contributories.

3. The liquidator shall also, as soon as practicable, send to each creditor mentioned in the company's statement of affairs, and to each person appearing from the company's books or otherwise to be a contributory of the company, a summary of the company's statement of affairs, including the causes of its failure, and any observations thereon which the liquidator may think fit to make: The proceedings at a meeting shall not be invalidated by reason of any summary or notice required by these rules not having been sent or received before the meeting.

4. The meetings shall be held at such place as is in the opinion of the Master most convenient for the majority of the creditors and contributories.

5. The Master, or some person nominated by him, shall be the chairman at the meetings.

6. A person shall not be entitled to vote as a creditor unless he has duly proved a debt to be due to him from the company, and the proof has been duly lodged with the Master not later than the time mentioned for that purpose in the notice convening the meeting or adjourned meeting.

7. A creditor shall not vote in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

8. For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security, unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

9. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the company, and against whom a sequestration order in insolvency has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

10. The liquidator, may within twenty-eight days after a proof estimating the value of a security as aforesaid has been used in voting at a meeting, require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated, with an addition

thereto of twenty per cent. Provided, that where a creditor has valued his security, he may, at any time before being required to give it up, correct the valuation by a new proof, and deduct the new value from his debt, but in that case the said addition of twenty per cent. shall not be made if the security is required to be given up.

11. The chairman shall have power to admit or reject a proof, but his decision shall be subject to appeal to the Court. If he is in doubt whether a proof should be admitted or rejected he shall mark it as objected to, and allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

12. A creditor or a contributory may vote either in person or by proxy.

13. Every instrument of proxy shall be in the prescribed form, and be issued by the liquidator, and every written part thereof shall be in the handwriting of the person giving the proxy or of any manager or clerk or other person in his regular employment, or of a justice of the peace.

14. General and special forms of proxy shall be sent to the creditors and contributories with the notice summoning the meeting, and neither the name nor description of any person shall be printed or inserted in the body of any instrument of proxy before it is so sent.

15. A creditor or a contributory may give a general proxy to his manager or clerk, or any other person in his regular employment. In any such case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor or contributory.

16. A creditor or a contributory may give a special proxy to any person to vote at any specified meeting, or adjournment thereof—

(a) for or against the appointment or continuance in office of any specified person, as liquidator or member of the committee of inspection; and

(b) on all questions relating to any matter other than those above referred to and arising at the meeting or an adjournment thereof.

17. A proxy intended to be used at the first meeting of creditors or contributories, or an adjournment thereof, shall be lodged with the Master not later than the time mentioned for that purpose in the notice convening the meeting or adjourned meeting, which time shall not be earlier than twelve o'clock at noon of the day but one, before nor later than twelve o'clock at noon of the day before the day appointed for that meeting, unless the Court otherwise directs.

18. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a liquidator in obtaining proxies, or in procuring his appointment as liquidator except by the direction of a meeting of creditors or contributories, the Court, if it thinks fit, may order that no remuneration be allowed to the person by whom or on whose behalf the solicitation was exercised, notwithstanding any resolution of the committee of inspection, or of the creditors or contributories to the contrary.

19. The chairman may, with the consent of the meeting, adjourn it from time to time and from place to place.

20. A meeting may not act for any purpose except the proving of debts, and the adjournment of the meeting, unless there are present or represented thereat, at least three creditors entitled to vote or three contributories, or all the creditors or contributories if their number does not exceed three.

21. If within half an hour from the time appointed for the meeting a quorum of creditors or contributories is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven or more than twenty-one days.

22. The chairman shall cause minutes of the proceedings at the meeting to be drawn up, and the minutes shall be signed by him and filed of record in the Master's office.

23. No person acting either under a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer, in a position to receive any remuneration out of the estate of the company otherwise than as a creditor ratably with the other creditors of the company. Provided that where any person holds special proxies to vote for an application to the Court in favour of the appointment of himself as liquidator he may use the said proxies and vote accordingly.

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of 1909.

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[See section *fourteen* for date of
operation.

AN
ACT

**To Consolidate and Amend the Laws relating to the
Working of Mines, Works, Machinery, and to Certificates.**

(Assented to 7th July, 1909.)

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

Repeal of
laws.

1. The laws mentioned in the Schedule to this
Act shall be and are hereby repealed, together
with the provisions of any other law repugnant
to or inconsistent with the provisions of this Act.

Interpreta-
tion of terms.

2. In this Act and any amendment thereof and
in any regulations or rules made thereunder,
unless inconsistent with the context,—

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

“machinery” shall mean and include stationary
and portable boilers, steam apparatus, steam
and other engines, including locomotives,
and all appliances or combinations of appli-
ances which can be used for developing
receiving transmitting or converting
either mechanical or natural power ;

“mine” shall mean and include all excavations
for the purpose of searching for or winning
minerals, as well as working of mineral
deposits, whether abandoned or actually
being worked on the surface, from the
surface downwards and underground,
together with all buildings, erections, and
appliances belonging or appertaining
thereto above and below ground for the
purpose of prospecting for or winning
metals, minerals, or precious stones by
boring excavating or dredging ;

“mineral” shall mean and include all sub-
stances (including mineral oils) which can
be obtained from the earth by mining
digging dredging, hydraulicing, or quarry-
ing operations for purposes of profit ;

“owner” of a mine or of works or machinery
shall mean any person who is the immediate
holder or lessee of a mine or of works or
machinery or part thereof, or a tributor

for the working of a mine or any part thereof, and in the case of a mine or works or machinery owned by an incorporated or registered company the term "owner" shall include every director or secretary or representative of the company in this Colony, and in the case of a mine or works or machinery owned by an unincorporated body of persons, shall include every member of that body in this Colony. A person who owns only the soil on which a mine or any works or machinery is situate shall not be deemed to be an "owner" for the purposes of this Act ;

"regulation" shall mean a regulation in force under section *four* of this Act ;

"Sundays" "Christmas Day" and "Good Friday" shall mean the period from twelve o'clock midnight on the day previous to any such day to twelve o'clock midnight on any such day ;

"works" shall mean and include chemical works, metallurgical works, reduction works, ore-dressing works, petroleum works, salt works, brick-making works, pottery works, lime works, and any places where machinery is erected or used, and all dams, reservoirs, and other appliances for conserving water, or for producing or transmitting energy, or for transporting water or material for the same, with the exception of dams or reservoirs erected outside proclaimed fields and used solely for agricultural purposes or the public or railway service.

3. The supervision of all mines and works and machinery shall be exercised by the Government Mining Engineer, and, subject to the directions of the Government Mining Engineer, by the Inspectors of Mines, the Inspectors of Machinery, Inspectors of Explosives, and other officers duly appointed by the Governor for the purpose.

Official supervision of mines works and machinery.

4. The Governor may, from time to time, make, alter, and rescind regulations not inconsistent with this Act for all or any of the matters or things, namely :—

Power of Governor to make regulations as to mines works and machinery.

(a) the protection and preservation of the surface of mines or works and of buildings, roads, railways, and other structures and enclosures on or above the surface of the ground, and the conditions under which such buildings, roads, railways, structures, and enclosures may be undermined ;

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of 1909.

- (b) the making and keeping of mine plans and the depositing of copies of the same with the Mines Department ;
- (c) the making of statistical and other reports relating to mines, works, and machinery ;
- (d) defining the duties and responsibility of owners, managers, overseers, and other persons engaged in or about mines, works, and machinery ;
- (e) appeals from any decision of or instruction given by the Government Mining Engineer, an Inspector of Mines or Machinery, Inspector of Explosives, or other duly appointed official ;
- (f) the storage, receipt, distribution, transport, and use of explosives ;
- (g) the holding of enquiries in cases of accident from which death does not result and authorizing the summoning of witnesses and their examination on oath at such enquiries ;
- (h) providing for ambulances and medical aid in case of accident ;
- (i) prescribing the conditions upon which machinery may be erected or used ;
- (j) prescribing the fees payable for licenses and inspection under this Act ;
- (k) prohibiting the making of roads or railways over, or the erection of buildings or other objects on, areas which have been undermined ;
- (l) ensuring the safety and health of persons employed in or about mines and works, and generally providing for the safety of persons, property, and public traffic ;
- (m) the procedure to be followed in connection with trials under section *nine* of this Act ;
- (n) the grant, cancellation, and suspension of certificates of competency to—
- (1) mine managers,
 - (2) mine overseers,
 - (3) mine surveyors,
 - (4) mechanical engineers,
 - (5) engine-drivers,
 - (6) miners entitled to blast,
 - (7) such other persons as the Governor may from time to time deem advisable ;
- (o) the fees payable by persons applying for any of the certificates mentioned in paragraph (n) or admission to an examination for any such certificate ;

- (*p*) underground contract work on mines with the measurement of such work, and the procedure to be adopted in the settlement of disputes arising therefrom ;
 (*q*) penalties for the breach of the regulations ;
 (*r*) generally for ensuring the proper working and management of all mines and works and of machinery.

All such regulations and any alteration or rescission thereof shall be published in the *Gazette* and shall be laid upon the tables of both Houses of Parliament within seven days after the same have come into operation, or, if Parliament be not then in session, within seven days after its commencement of its next ensuing session.

5. The manager of a mine or works may make special rules, not inconsistent with this Act or any regulation, for the maintenance of order and discipline and the prevention of accidents in such mine or works. Such rules shall be submitted through the Inspectors of Mines to the Government Mining Engineer for approval, and shall take effect after they have been posted up in a conspicuous place at the mine or works for fourteen days.

Special rules for order and discipline in mines or works.

The Government Mining Engineer, if he considers such rules unreasonable, unnecessary, or otherwise undesirable, may disallow them or at any time require them to be altered.

Such rules, when and so long as they are so posted up and are legible, shall, until so disallowed and save in so far as they are so altered, have the same force and effect as the regulations, and any person contravening any such rule shall be liable to a fine not exceeding five pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding fourteen days.

6. No person shall perform, or cause or permit to be performed, any work in or about any mine or works on Sundays, Christmas Day, or Good Friday, unless such work be—

Work on Sundays
Christmas
Day and
Good Friday.

- (1) attending to and working pumping machinery or machinery for the supply of light, heat, or power, or steam boilers belonging to any such machinery ;
- (2) such repairs above or below the surface as cannot be delayed without causing damage, or which cannot be done upon any other day without unduly interfering with labour on or in a mine or works, and in such class of work shall be included labour

Act No. 32
of 1909.

in workshops necessary and incidental to such repairs ;

(3) the chemical treatment of ore and other continuous chemical processes ;

(4) the keeping on of blast or smelting furnaces and of chemical works ;

(5) the running of stamp mills or other machinery used for crushing ore ;

provided always that special permission may, on application to an Inspector of Mines, be granted by the Government Mining Engineer for carrying on temporarily any other necessary work, in addition to work in this section described, on the days aforesaid in or about any mine.

Any person who shall contravene the provisions of this section shall be liable on conviction to a fine not exceeding one hundred and fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

Permission of Government Mining Engineer to drive connecting tunnels.

7. The Government Mining Engineer may in his discretion permit the driving of a connecting tunnel, shaft, or incline, by any person working a mine through ground held under mining title by another person provided that—

(a) such tunnel, shaft, or incline is necessary for the improved working of the mine ;

(b) the making of such tunnel, shaft, or incline does not hinder the working of such ground ;

(c) the person making the tunnel, shaft, or incline is willing to make good all damage arising from the making thereof ;

(d) the minerals extracted in such tunnel, shaft, or incline be handed over to the person entitled to the minerals in such ground free of cost.

Employment of juveniles and females.

8. No boy under the age of sixteen years and no female person shall be employed underground on any mine ; and no person under the age of seventeen years shall be permitted or caused to work for any longer period than eight hours in any one day or for longer than forty-eight hours in any one week in any mine or works, except for the purpose of performing such work as is described in sub-section (2) of section *six* hereof. Any person contravening the provisions of this section shall be liable on conviction to a fine not exceeding ten pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding fourteen days.

9. (1) Every Inspector of Mines, Deputy Inspector of Mines, the Chief Inspector of Machinery, and the Chief Inspector of Explosives, and every other official duly appointed under this Act or any amendment thereof, may try any breach of a regulation or of any rule in force under section *five*, unless serious bodily injury or death has been caused to any person by such breach.

Powers of Inspectors of Mines etc. to try breaches of certain regulations.

(2) For the purposes of such trial any such officer aforesaid may summon any person as a witness in manner prescribed by regulation and every person on whom such summons has been duly served who neglects or refuses without reasonable excuse to attend at the time and place mentioned in such summons shall be liable on conviction before a court of resident magistrate to a fine not exceeding ten pounds or, in default of payment, to imprisonment for a period not exceeding one month.

(3) All evidence at any such trial shall be given upon oath, and every such officer aforesaid is hereby authorized to administer an oath to every witness at such trial, and any person giving false evidence material on such trial shall be deemed to be guilty of perjury.

(4) Any such officer aforesaid may, on finding a person guilty of a breach of a regulation or rule which he is hereby authorized to try, impose a fine not exceeding five pounds or, in default of payment, he shall notify the amount to the employer of such person, who shall withhold the amount so notified from any wages due or to become due to such person and pay it over to such officer aforesaid for the benefit of the Colonial Treasury.

(5) At every such trial any such officer shall take down the evidence in writing and record his finding and sentence in writing and forward the same to the resident magistrate of the district, and an appeal shall lie to such resident magistrate against any such finding and sentence, if notice stating the grounds thereof is given to him in writing within twenty-one days of the date of such sentence, and the decision of the resident magistrate upon such appeal shall be final.

10. Any person obstructing or hindering any officer of the Mines Department in the discharge of his duty, or disobeying any lawful order given by such official, or refusing or neglecting to furnish such officer with the means and assistance necessary for making an entry, inspection, examination, or enquiry under this Act or any regulation shall be liable to a fine not exceeding one hundred and fifty pounds or, in default of

Obstruction of or disobedience to orders of officials.

**Act No. 32
of 1909.**

Penalty for
obtaining
certificate of
competency
fraudulently.

Penalties not
expressly
provided for.

Penalty for
endangering
safety or
causing
serious bodily
injury.

Title and date
of operation
of Act.

payment, to imprisonment with or without hard labour for a period not exceeding twelve months.

11. Any person who obtains or attempts to obtain a certificate of competency under regulation by means of fraud, or false pretences, or any false document, shall be liable to a fine not exceeding seventy-five pounds, or, in default of payment to imprisonment with or without hard labour for a period not exceeding six months, and any certificate obtained by such means shall become thereupon cancelled.

12. Any person contravening any provision of this Act or of any regulation shall, whenever no penalty is expressly provided by this Act or by the regulations for the contravention, be liable upon conviction to a fine not exceeding one hundred and fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months, and every court of resident magistrate shall have special jurisdiction to impose the maximum penalty hereby authorized.

13. If any person is guilty of any act or omission or contravenes any of the provisions of this Act or of the regulations or of any rules in force under section *five* whereby—

(1) the safety of any person is endangered or likely to be endangered, he shall be liable on conviction to a fine not exceeding two hundred and fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months ;

(2) serious bodily injury is caused to any person, he shall be liable on conviction to a fine not exceeding five hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months ;

provided always that nothing in this section or in section *twelve* contained shall exempt any person from prosecution for an offence under the common law or any statute, nor prevent the infliction on such a person, if convicted for such offence, of a more severe penalty than is prescribed for a contravention of this Act or the regulations.

14. This Act may be cited for all purposes as the Mines, Works, Machinery, and Certificates Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.

Schedule.

The Mining Certificates Ordinance 1903 (No. 50 of 1903).

The Mines, Works, and Machinery Regulations Ordinance 1903 (No. 54 of 1903).

The Mines, Works, and Machinery Regulations Amendment Ordinance 1905 (No. 31 of 1905).

The Mining Certificates Amendment Ordinance 1906 (No. 11 of 1906).

ACT NO. 33 OF 1909.] [Came into operation 21st July, 1909. **Act No. 33 of 1909.**

AN
ACT

**To further amend the Liquor Licensing Laws
in certain respects.**

(Assented to 7th July, 1909.)

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

1. Section *thirty-two* of Ordinance No. 32 of 1902 (hereinafter referred to as the principal law), sub-section (5) of section *four* and section *six* of Ordinance No. 17 of 1903, and section *three* of Ordinance No. 68 of 1903 shall be and are hereby repealed. Repeal of laws.

2. (1) A licensing court shall not grant a certificate for a new retail license within any municipality if thereby the number of retail licenses authorized in that municipality would be more than one for every two hundred parliamentary voters resident therein ; provided that the licensing court may, notwithstanding anything in this sub-section contained, grant certificates for two retail licenses in any municipality. Limitation of number of retail licenses in proportion to population.

(2) The restrictions which by sub-section (1) are placed upon the grant of certificates for new licenses within municipalities shall be observed by a licensing court in hearing and determining applications for certificates for new licenses in towns or public diggings outside municipalities and the licensing court may, in such cases, exercise the powers mentioned in the proviso to sub-section (1).

(3) As soon as may be after the coming into operation of this Act and thereafter as soon as any periodical general registration of parliamentary voters in this Colony is completed, the Colonial Secretary shall cause to be ascertained from the particulars contained in the rolls of parliamentary voters then in force, the number of parliamentary voters resident respectively in each of the municipalities and in each of the towns and public diggings situate outside municipalities in this Colony, and shall notify that number in the *Gazette*. The number so notified shall be conclusive, in the case of each such municipality, town, or public digging as to the number of voters therein for the purposes of sub-sections (1) and (2).

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of 1909.

(4) For the purposes of this section--

"retail license" shall mean--

- a general retail liquor license,
- a café or restaurant liquor license,
- a malt liquor license, or
- a bottle liquor license ;

but if the applicant for a certificate for a restaurant or café liquor license in respect of any premises is also the applicant for a certificate for a malt, bottle, or general retail liquor license or the holder of one of such licenses, in respect of the same premises, he shall be deemed to be the applicant for one license ;

"new retail license" shall mean a license in respect of premises where, at the date of an application for a certificate, no retail license of the same kind existed, but nothing in this definition contained shall be deemed to modify the provisions of section *forty* or *forty-one* of the principal law ;

"town" shall mean a proclaimed town or township, a township approved under the Townships Act 1907 or any amendment thereof, or a stand township mentioned in the First Schedule to the Townships Amendment Act 1908 ;

"public digging" shall mean land which is proclaimed land within the meaning of the Precious and Base Metals Act 1908 or any amendment thereof, or land which is an alluvial digging under the Precious Stones Ordinance 1903 or any amendment thereof.

Power of Governor to authorize special sittings of licensing court to hear applications by persons who failed to obtain renewals of licenses owing to section *thirty-two* of Ordinance No. 32 of 1902.

* 3. (1) Within one month after the coming into operation of this Act the Governor may authorize a special meeting of the licensing court of any district of this Colony to hear and determine applications for the grant of certificates under the principal law in respect of premises where licenses existed in the month of December 1908 or subsequent thereto and certificates for the renewal of those licenses were refused solely upon the ground that the licensing court was precluded by the terms of section *thirty-two* of the principal law from granting those certificates for renewal ; provided that as far as possible preference shall be given to the last licensee in respect of any premises.

(2) Every application at such a special meeting shall be made in manner prescribed by, and subject in all respects to, the provisions of the principal law relating to applications for certificates for liquor licenses, and every such application

* For authorization of special meetings see Govt. Notice No. 866 of 1909 republished as amended under Govt. Notice No. 879 of 1909 (*Gazette Extraordinary*, 30th July, 1909, No. 625).

shall be deemed for all purposes of the principal law or any amendment thereof to be an application for a renewal of a certificate :

Provided that the Governor may order that the several periods required by sections *twenty-two*, *twenty-three*, *twenty-six*, and *twenty-eight* of the principal law shall be shortened for the purpose of hearing and determining every such application in any or all such districts, and may prescribe the several shorter periods in lieu of the periods aforesaid, but so that not less than fourteen days be prescribed in lieu of the period of six weeks mentioned in the said section *twenty-two*.

4. Whenever in the principal law the terms "town", "village", or "stand township" are used, those terms shall be deemed to mean a municipality, or a town (as defined in and for the purposes of section *two* of this Act) outside a municipality, and whenever in the principal law the term "proclaimed public diggings" is used that term shall be deemed to be public diggings (as defined in the said section) outside a municipality.

Interpre-
tation of
certain
terms in
municipality.

Nothing in this section contained shall be construed as preventing the renewal at any time of a license existing at that time.

5. Nothing in this Act contained shall be construed, as in any way recognising the principle of the licensing of premises or, as derogating in any way whatever from those rights and powers of a licensing court described in sections *twenty-seven* and *twenty-eight* of the principal law.

Refusal of
license by
court without
giving
reasons.

6. Notwithstanding anything contained in section *fifty-seven* of the principal law, a court may, in its discretion, sentence any person convicted for a contravention of that section to a shorter period of imprisonment than the minimum period prescribed for such a contravention, or may, in its discretion, sentence the convicted person to such a fine only as is prescribed for the contravention.

Abolition of
minimum
penalties for
contravention
of section
fifty-seven of
Ordinance
No. 32 of
1902.

7. The holder of a brewer's license obtained under section *two* of Act No. 9 of 1907 shall be subject to the same restrictions and penalties in respect of the sale or supply of malt liquor as apply to the holder of a wholesale license.

Restrictions
on sale or
supply of
malt liquor
by holders of
brewers
licenses.

Nothing in this section contained shall be construed as applying the provisions of section *fourteen* of Ordinance No. 8 of 1906 to the holder of a brewer's license.

8. This Act may be cited for all purposes as the Liquor Licensing Laws Further Amendment Act 1909, shall be read as one with the principal law or any amendment thereof, and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

Title and
date of opera-
tion of Act.

* The Act was first published in a *Gazette Extraordinary* on the 21st July, 1909,

Act No. 34 of 1909. ACT NO. 34 OF 1909.] [Came into operation 1st Oct., 1909.]

AN
ACT

To provide for the Registration of Premises in which Stocks and Shares are dealt with and of persons who carry on the business of Stock or Share Dealers or Brokers.

(Assented to 7th July, 1909.)

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

Licensing of premises in which stocks and shares are dealt in.

* 1. (1) From and after the coming into operation of this Act the owner, occupier, or person having the control of any premises in this Colony shall not permit those premises to be used, either by the public generally or by the members of any association, for the purpose of dealing in stocks or shares therein, unless the premises have been licensed for that purpose by the resident magistrate of the district in which they are situate.

(2) A license for any such premises shall not be granted until—

(a) rules and regulations under which such dealing will be carried on in the premises have been approved by the Governor-in-Council; and

(b) save as is hereinafter provided such security has been lodged with the Colonial Treasurer as the Governor-in-Council may determine to be a sufficient guarantee for the protection of persons dealing in stocks and shares at the premises.

The license, if granted, shall be issued in the name of the person who desires to carry on the dealing in stocks and shares at those premises, or, in the case where the premises are used by the members of an association formed for facilitating the dealing in stocks and shares, the license shall be issued in the name of the chairman, manager, or secretary thereof. Anything to the contrary notwithstanding in this section contained, the Governor-in-Council may, in the case of such an association, dispense with the lodging of the security aforesaid, if satisfied that the association does not itself deal in stocks or shares and so long as it does not so deal.

* For instructions relative to applications for licences, see Govt. Notice No. 1072 of 1909 (*Gazette*, 17th Sept., 1909, p. 1110).

* 2. (1) From and after the coming into operation of this Act no person or body of persons shall, in this Colony, carry on the business of dealer or dealers in stocks and shares outside premises licensed under the last preceding section unless licensed under this section.

Licensing of persons to deal in stocks and shares outside licensed premises.

(2) A license to carry on the business of dealer or dealers in stocks and shares shall be issued by the resident magistrate of the district in which the premises are situate wherein the business is to be carried on, if that magistrate is satisfied that—

- (a) the rules and regulations under which the business will be carried on have been approved by the Governor-in-Council; and
(b) such security has been lodged with the Colonial Treasurer as the Governor-in-Council may determine to be a sufficient guarantee for the protection of persons dealing with the licensee.

3. Any rules and regulations mentioned in this Act shall contain such restrictions or impose such conditions as the Governor-in-Council may determine, relative to advertisements in respect of stocks or shares dealt in at the premises licensed under section *one* or by persons licensed under section *two*.

Rules and regulations may restrict advertisement.

4. The Colonial Treasurer shall from time to time publish, by notice in the *Gazette*, the description of the situation of premises licensed under section *one*, the names of any persons licensed under section *two*, and the rules and regulations approved and the amount of any security lodged under either of such sections. A copy of the *Gazette* containing such notice shall be *prima facie* evidence in any court of law, on any charge of contravening this Act, of the facts stated in that notice.

Publication in *Gazette* of particulars of matters required by this Act.

5. Any person who shall contravene any provision of this Act or shall carry on the business of dealer in stocks and shares except in accordance with the rules and regulations approved as aforesaid, shall be guilty of an offence against this Act and liable on conviction to a fine not exceeding two hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding one year, and, in the case of a second or subsequent conviction, to such imprisonment without the option of a fine.

Penalties.

6. (1) The security mentioned in section *two* may be paid over or delivered by the Colonial Treasurer to any officer charged with the duty of levying execution to satisfy the judgment of any

Attachment and forfeiture of security.

* For instructions relative to applications for licences see Govt. Notice No. 1072 of 1909 (*Gazette*, 17th Sept., 1909, p. 1110).

STOCK AND SHARE DEALINGS REGULATION.
316 LOCAL AUTHORITIES RATING FURTHER AMENDMENT.

Act No. 34
of 1909.

competent court in respect of the said stock or share dealings of the licensee.

(2) Such portion of the security mentioned in section *one* or *two* as the Governor-in-Council may determine shall be forfeited for the benefit of the Treasury if any conviction be obtained in respect of the premises or against the licensee (as the case may be) for an offence against this Act.

(3) When any security is paid over, delivered, or forfeited under this section, the depositor shall not be deemed to have complied with the requirements of this Act relative to lodging of security, until the amount so paid over, delivered, or forfeited has been replaced.

Title and date
of operation
of Act.

7. This Act may be cited for all purposes as the Stock and Share Dealings Regulation Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.*

ACT NO. 35 OF 1909.] [Came into operation 21st July, 1909.]

Act No. 35
of 1909.

AN

ACT

To further Amend the Local Authorities Rating
Ordinance 1903 (Ordinance No. 43 of 1903).

(Assented to 7th July, 1909.)

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

Interpre-
tation of
terms.

1. In this Act—

“agricultural land” shall mean arable, meadow, or pasture land, market gardens, poultry farms, nursery gardens, plantations, and orchards, but shall not include—

(a) land occupied as a park together with a house thereon ; or

(b) land used as a garden other than as aforesaid ; or

(c) land kept or reserved for the purposes of sport, athletics, or recreation, or used as a race course ;

“council” shall mean the council of a municipality established under any law ;

“principal law” shall mean the Local Authorities Rating Ordinance 1903 (Ordinance No. 43 of 1903).

* See Proc. No. 62 (Adm.), 1909 (*Gazette*, 13th Aug., 1909, p. 686) putting the Act in operation on 1st Oct., 1909. Digitisation Programme, University of Pretoria, 2016

2. Nothing in sub-section (1) of section *sixty-eight* of the Precious and Base Metals Act 1908 contained shall be construed as amending, or as having amended at the commencement of that Act, either of the third exceptions to the definition of "rateable property" in section *three* of the principal law, whether the exception be in respect of districts included within (A) or districts included within (B).

Provisions of section *sixty-eight* of Act No. 35 of 1908 not to be deemed to have amended the principal law.

Act No. 35 of 1909.

3. Section *three* of the principal law shall be and is hereby amended as follows :—

Amendment of section *three* of Ordinance No. 43 of 1903 making land leased from the Crown or leases of trading stands on mining ground rateable property.

(a) By the deletion therefrom of the words "In every district within the Witwatersrand Magisterial District" and the substitution therefor of the words "In the Magisterial Districts of Boksburg, Germiston, Johannesburg and Krugersdorp."

(b) To the definition of "interest in land" for the purposes of the definition of "rateable property" under (B) shall be added a new paragraph, namely,—

"(6) any lease of land from the Crown, or any lease of a trading stand which has been lawfully granted by the Board constituted in accordance with section *eighty-three* of the Precious and Base Metals Act 1908."

(c) To the definition of "Owner" shall be added a new paragraph, namely,—

"(5) in any case where property, situated in a district in which the definition of rateable property under (B) is applicable, is held under lease from the Crown, or in the case of a trading stand held under a lease which has been lawfully granted by the Board constituted in accordance with section *eighty-three* of the Precious and Base Metals Act 1908, the lessee thereof."

4. (1) Notwithstanding anything contained in paragraph (5) of section *six* or in section *seven* of the principal law or in any amendment of those sections, any area of land, not less than three morgen in extent, which is *bona fide* used exclusively as agricultural land shall be treated by the valuer or valuers as if that area were subject to the perpetual servitude of being used solely as agricultural land, and the amount or sum at which that area shall be valued for the purposes of the valuation roll shall be the full and fair price or sum which the same would, in the valuer's or valuers' opinion, realise if brought to voluntary

Special valuation of agricultural land etc., for purposes of rating.

**Act No. 35
of 1909.**

sale encumbered by that servitude: That sum shall include the value of all dwellings, other buildings or erections and any improvements thereon used in connection with the exclusive purpose for which the area is used.

(2) The provisions of sub-section (1) shall not apply to areas of land within a township unless the Council shall by resolution declare, before the commencement of any valuation under the principal law or any amendment thereof, that those provisions shall apply in the case of any township by reason of its remote situation from the centre of the municipality and by reason of the small percentage of the lots therein occupied for residential purposes. A special valuation under this section shall be made only in respect of an area of not less than three morgen in extent which, being in a township, is composed of contiguous lots in that township not separated by squares, streets, or sanitary passages.

(3) If a valuation of any such area has been made by a council under the principal law or any amendment thereof prior to the coming into operation of this Act, the owner (as in the principal law defined) may, within sixty days from the first day of July 1909, apply to that council that an *interim* valuation of the area be made in accordance with section *thirteen* of the principal law.

(4) As soon as may be after the receipt of the application the council shall cause such an *interim* valuation to be made and the owner shall thereupon be liable to pay rates on such land only upon the value as determined by that *interim* valuation, notwithstanding that a rate on the said area may have become due and payable between the first day of July 1909 and the date of his application; provided that if the value be not determined by that *interim* valuation before the date of a rate so becoming due, interest in respect of so much of that rate as remains unpaid after the date upon which it became due shall not be reckoned until thirty days after the value of the area according to the *interim* valuation has become fixed and binding in terms of sections *eleven* and *twelve* of the principal law.

Exemption of
Mooibank
settlers from
past liability
for payment
of rates.

5. Anything to the contrary in any law notwithstanding, there shall be cancelled the liability for payment of all rates or interest upon rates owing under the principal law or any amendment thereof to the Council of the Municipality of Potchefstroom by any person in respect of any such

interest in land as, under the Transvaal Constitution Letters Patent, 1906, or the Land Settlement Act 1907, has been or may be transferred or ceded to the Transvaal Land Settlement Board, and it shall not be necessary to produce any such receipt or certificate as is described in section *twenty-six* of the principal law in order that the cession or transfer of that interest in land may be passed before the Government official concerned.

**Act No. 35
of 1909.**

6. This Act may be cited for all purposes as the Local Authorities Rating Further Amendment Act 1909, shall be read as one with the principal law or any amendment thereof, and shall come into operation on the date of its first publication as an Act in the *Gazette*.*

Title and date
of operation
of Act.

ACT NO. 36 OF 1909.] [Came into operation 1st Jan., 1910.]

AN
ACT

**Act No. 36
of 1909.**

To provide for the Registration of Businesses other than Registered Companies and certain other Associations.

(Assented to 7th July, 1909.)

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

PRELIMINARY.

1. In this Act unless inconsistent with the context—

Interpre-
tation of
terms.

“business” shall mean any business carried on in this Colony by one or more persons (whether in partnership or not) if a license is required therefor by the Revenue Licenses Ordinance 1905 or any amendment thereof or by municipal bye-law, but the term “business” shall not include a business carried on by—

- (a) a company, or foreign company, as defined by the Companies Act 1909;
- (b) a company incorporated by letters patent, Royal Charter, or Act of Parliament of this Colony or of the United Kingdom; or

* The Act was first published in a *Gazette Extraordinary* on the 21st July, 1909.

Act No. 36
of 1909.

- (c) a society registered under the Co-operative Agricultural Societies Act 1908 or any amendment thereof ;
- “ business name ” or “ business style ” shall mean the name or style under which any business is carried on in this Colony ;
- “ commencement of this Act ” shall mean the date upon which this Act came into operation ;
- “ imprisonment ” shall mean imprisonment with or without hard labour, as the court which passes sentence may direct ;
- “ license ” shall mean a license, under the Revenue Licenses Ordinance 1905 or any amendment thereof or under municipal bye-law, to carry on a business ;
- “ license officer ” shall mean any officer charged by the Colonial Treasurer or by the council of a municipality (as the case may be) with the duty of issuing licenses ;
- “ prescribed ” shall mean prescribed by this Act or by regulation ;
- “ registrar of companies ” shall mean the officer carrying out the duties of such registrar under the Companies Act 1909 ;
- “ regulation ” shall mean a regulation in force under section *sixteen* of this Act.

CONDITIONS PRECEDENT TO GRANT, RENEWAL,
OR TRANSFER OF TRADING LICENSE TO FIRMS.

Declarations
to be made
before
license
officers of
particulars
of businesses.

2. (1) From and after the commencement of this Act every person applying for the grant or renewal of a license in respect of a business shall make, before the license officer, an affidavit or a solemn declaration in writing stating—

- (a) the business name ;
- (b) the nature of the business carried on or to be carried on and, in the case of a new license, the names of all persons (if any) from whom the business was acquired by the intending license holder ;
- (c) unless the business is a hawker's or pedlar's business, the full addresses of all the premises in this Colony in which the business is intended to be or, in case of an application for renewal of a license, is being carried on ;

(d) the full name, the usual residence, and all the occupations, of every person intending to carry on, or, in the case of an application for renewal of a license, actually carrying on, the business ;

(e) if in the case of a new license the intending license holder is a partnership, the date when the partnership came into existence.

(2) In the case of a partnership, it shall be a sufficient compliance with this section if the affidavit or solemn declaration be made by one partner in this Colony, or, if there be no partner in this Colony, it shall be a sufficient compliance with this section if the affidavit or solemn declaration be made by a person producing to the license officer a power of attorney, authenticated as required by law, showing that such person is duly authorized to apply for the grant or renewal of the license on behalf of the partnership.

(3) No license shall be issued or renewed by a license officer in respect of any business until the provisions of this section have been complied with.

(4) Nothing in this section shall render it necessary to declare the names of an anonymous or a sleeping partner in the case of an anonymous partnership or partnership *en commandite*.

3. (1) Whenever there is a change in the style, constitution, *personnel*, or premises of a business registered under this Act, notice of the change shall, within fourteen days after such change takes effect, be advertised on behalf of the business in three consecutive ordinary issues of the *Gazette* and once in each week for three consecutive weeks in a newspaper circulating in every district wherein the business premises were situate before the change, or, in the case of a hawker's or pedlar's business, wherein the business was being carried on before the change.

Notice of changes in style, constitution, or place of business.

(2) Application in writing shall further be made on behalf of the business for endorsement on the license of the particulars of the change, and the license officer shall, if satisfied that the provisions of sub-section (1) have been complied with, and on production of the license, endorse the license accordingly, or issue a new license as the case may require, and make corresponding entries in his register.

**Act No. 36
of 1909.** Notice of
transfer
of business.

4. (1) Whenever any person desires to transfer his business, or to transfer or sell, with the view to the transfer or abandonment of any business, any stock in trade or other assets held or used for the purpose of such business, notice of the proposed transfer or sale shall be advertised by that person before the date on which the transfer or sale is to take effect in three consecutive ordinary issues of the *Gazette* and once in each week for three consecutive weeks in a newspaper circulating in every district wherein the business premises are situate, or, in the case of a hawker's or pedlar's business, wherever the business is being carried on.

(2) The license officer, shall, notwithstanding anything in the Revenue Licenses Ordinance 1905 or any municipal bye-law contained, refuse to issue a new license or transfer an existing license in respect of the business unless he is satisfied that the provisions of sub-section (1) have been complied with.

(3) The provisions of sub-sections (1) and (2) of this section shall apply in respect of the devolution of a business by testamentary or intestate succession, save that the prescribed notice shall be advertised by the executor of the deceased license holder, or, if there be no executor, by any *curator bonis* lawfully appointed to take charge of the estate of the deceased.

(4) No business which has been transferred shall continue to be carried on under a license in the name of the transferor.

REGISTRATION OF BUSINESSES.

Register to
be kept by
license
officer.

5. (1) Every license officer shall keep, in the prescribed form, a register of every business in respect of which a license has been, in his office, issued, renewed, or transferred.

(2) The register shall, in addition to the prescribed particulars, contain all the particulars furnished on behalf of a business to the license officer under the provisions of this Act.

(3) A certified copy of the register shall be transmitted by the license officer to the registrar of companies not later than the fourteenth day in every month.

6. (1) The registrar of companies shall keep in the prescribed form a register of information furnished to him by license officers under the last preceding section and an alphabetical index of business names and of persons registered under this Act.

Central register to be kept by registrar of companies.

**Act No. 36
of 1909.**

(2) Particulars of such information and such further information as may be from time to time prescribed shall be published in the *Gazette* once every six months by the registrar of companies.

7. (1) The registers kept under the last two preceding sections may on written application be inspected during ordinary office hours by any person on payment of a fee of one shilling.

Inspection and taking copies of registers and evidence of same and of certificate of registration.

(2) Copies of any such register or a portion thereof may also be made during the hours in which it is open for inspection on payment of a fee of one shilling for every hundred words or less copied.

(3) The registrar of companies shall, if required, furnish to any person a certificate of registration of any business under this Act or a certified copy of any portion of the register kept by him. A fee of one shilling shall be payable for such certificate of registration and a fee of one shilling for every five hundred words or less copied shall be payable for every such certified copy.

(4) All fees payable under this section shall be paid by means of revenue stamps affixed to the document, or, in the case of an application for inspection, to the form of application. The license officer or registrar receiving the fee shall duly deface the stamps in manner required by law.

(5) Every certified copy issued by the registrar of companies under sub-section (3) shall, if it is duly stamped and purports to be signed and certified by the registrar of companies, be *prima facie* evidence in all courts and places in this Colony of the facts stated on that copy.

(6) Every certificate of registration, so duly stamped, signed, and certified, shall be conclusive evidence in all courts and places that all the requirements of this Act in respect of registration have been complied with.

Act No. 36
of 1909.SPECIAL PROVISIONS AS TO BUSINESS
PARTNERSHIPS.

Style of
partnership,
and legal
proceedings
by or against
a partnership.

8. (1) Legal proceedings may be instituted by or against the partnership in the registered business style of the partnership without setting forth the names of the individual partners in the notice of motion, summons, declaration, plea or other like document in the proceedings.

(2) Legal proceedings may be instituted against a partnership in a court having jurisdiction in any district wherein the registered business premises of the partnership are situate or wherein any registered partner resides.

(3) If a partner whose name forms part of the business style of the partnership retires from the partnership or dies, the remaining partners shall not carry on a partnership under the same style for longer than six weeks after the date of the retirement or death of such partner except with the consent of the retiring partner or, in the case of his death, with the consent of his executor, or failing an executor, a *curator bonis* lawfully appointed to take charge of the deceased's estate.

Dissolution of
partnership
or cessation
of business.

9. (1) If a partnership is dissolved or the members thereof cease to carry on business as a partnership it shall be the duty of every such member to transmit to the license officer within fourteen days after the dissolution or cessation (as the case may be) written notice thereof.

(2) Whenever a license officer has received a notice transmitted under sub-section (1) that a partnership has been dissolved or has ceased to carry on business as that partnership, he shall make entries upon his register accordingly.

Insolvency
etc. of
partnership.

10. If the separate estate of a partner or the joint estate of a partnership be sequestered by order of the Court or surrendered under the law for the time being relating to insolvency, the license officer and the registrar of companies shall make entries accordingly in their respective registers and shall further make entries of the fact of any order setting aside a sequestration, or of an order of rehabilitation. The Registrar of the Court which made any such order or accepted the surrender shall, as soon as may be thereafter, furnish to the license officer

and to the registrar of companies such information as will enable them to carry out the provisions of this section.

**Act No. 3
of 1909.**

MISCELLANEOUS.

11. (1) Every agreement entered into after the commencement of this Act for the alienation of a business name from the business to which that name belongs shall be void to all intents and purposes.

Voidance of certain agreements in relation to businesses.

(2) Every agreement to transfer or sell any business or to transfer or sell, with the view to the transfer or abandonment of any business, any stock in trade or other assets held or used for the purpose of such business or to re-constitute any business shall be void as against creditors of the business unless all the provisions of this Act applicable to the business have been complied with.

12. (1) A business may not be registered by a name identical with that by which a business in existence is already registered or so nearly resembling that name as to be calculated to deceive, except where the business in existence is in the course of being dissolved in the prescribed manner; provided that nothing herein contained shall be construed to prevent a business from being registered by the name it actually bears at the date of the commencement of this Act.

Restrictions as to business names.

(2) A business may not be registered by a name calculated to cause annoyance or offence to any person or by a name suggestive of blasphemy or indecency.

(3) A business may not, without the consent of the Governor, be registered by a name which includes the words "Imperial", "Royal", "Crown", "Empire", "Government", or any other word which imports or suggests that it enjoys the patronage of His Majesty or of the Governor or of the Imperial or Colonial Government; but nothing in this sub-section contained shall be construed as preventing the registration of a business name which was held at the commencement of this Act.

(4) If a business, through inadvertence or otherwise, is registered in conflict with the provisions of this section it shall change its name, and, until it has changed its name, the right to trade under a license shall be suspended, and,

Act No. 36
of 1909.

during the period of suspension, the business shall be deemed to be unlicensed.

(5) Nothing in this section shall be construed as preventing the registration of a business name which consists only of one of the christian names and the surname of the license holder or of any partner of the license holder who is liable *in solidum* for the partnership debts.

Affidavits
and solemn
declarations.

13. (1) Every license officer may require any statement material to the purposes of this Act, if not already verified by the affidavit or solemn declaration of a particular person, to be so verified by that person.

(2) No stamp duty shall be chargeable upon any affidavit or solemn declaration specifically required by this Act or any regulation, notwithstanding anything contained in the Stamp Duties Amendment Proclamation 1902 or any amendment thereof.

(3) Any person who makes a false statement in any affidavit or solemn declaration made under this Act or a regulation or makes, signs, sends, or delivers any false statement under this Act, knowing the same to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

General
penalties
for default
in complying
with Act.

14. Any person who shall make default in complying with any requirement of this Act, or shall contravene any provision of this Act, shall, if for the default or contravention no penalty is specially provided, be liable on conviction—

(a) in the case of a first offence to a fine not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding three months; and

(b) in the case of a second or subsequent offence to a fine not exceeding one hundred pounds or in default of payment to imprisonment for a period not exceeding six months, or to both such fine and imprisonment, or to such imprisonment without the option of a fine, and, in the case of a continuing offence, to a fine not exceeding five pounds for every day during which the offence continues, or in default of payment to imprisonment for a period not exceeding seven days for every five pounds so ordered to be paid.

15. (1) In the case of an offence against this Act by a partnership, the manager and each partner in this Colony (other than such a partner as is described in sub-section (4) of section *two*) shall be liable to prosecution and to the penalties provided for the offence, unless he shall prove to the satisfaction of the Court that the offence was committed without his knowledge, authority, or permission.

Responsibility for contravention of Act by partnership or foreign businesses.

**Act No. 36
of 1909.**

(2) In the case of an offence against this Act in respect of any business, if every proprietor of the business is outside the Colony, the manager or agent in this Colony for the business and every person who carried on the business therein shall be liable to prosecution and to the penalties provided for the offence.

16. (1) The Governor-in-Council may from time to time make, alter, or rescind regulations, not inconsistent with this Act or any other law, prescribing—

Power to make regulations.

(a) the fees (other than are specially fixed by this Act) to be paid to license officers and the registrar of companies in respect of matters to be done by those officers under this Act ;

(b) the forms of registers to be kept and of certificates of registration and other documents to be given or used for the purposes of this Act, the particulars to be entered in those registers and on those certificates and documents, and the particulars to be from time to time published ;

(c) the duties of license officers and the registrar of companies under this Act, and generally for the better carrying out of the objects and purposes of this Act.

(2) Every such regulation or alteration or rescission thereof shall be of force and effect when published in the *Gazette*.

(3) All such regulations or the alteration or rescission thereof shall be laid on the tables of both Houses of Parliament within seven days after the publication, if Parliament be then in session, or if it be not then in session, within seven days after the commencement of its next ensuing session.

17. This Act may be cited for all purposes as the Registration of Businesses Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.*

Title and date of operation of Act.

Act No. 37 of 1909.] [Came into operation 15th Oct., 1909.]

AN

ACT

To regulate and control Horse, Pony, and Galloway Racing, to restrict Betting and Wagering, and to prevent the dissemination of information as to Betting.

(Assented to 7th July, 1909.)

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

Repeal of Proclamation (Transvaal) No. 33 of 1901.

1. Proclamation (Transvaal) No. 33 of 1901 shall be and is hereby repealed together with the provisions of any other law which is repugnant to or inconsistent with the provisions of this Act.

Interpretation of terms.

2. In this Act, unless inconsistent with the context—

“race” shall mean any horse, pony, or galloway race ;

“race card” shall mean any list printed for the use of the public of any events to take place at a race meeting ;

“racecourse” shall mean any land licensed under this Act for the holding of race meetings ;

“race day” shall mean, in the area comprised in a radius of twenty-five miles from the General Post Office Johannesburg, any Saturday or public holiday from the hour of ten o'clock in the forenoon till six o'clock in the afternoon and any other day on which a race meeting may be held under the provisions of sub-section (2) of section *four*, unless any of such days be Christmas Day, Good Friday, or Ascension Day. In any part of the Colony outside that area “race day” shall have the same meaning, but, save as aforesaid, Wednesday shall also be a race day ;

“race meeting” shall mean any gathering of the public or of the members of any association of persons to watch a race or races, if the date and place of holding the same have been notified by public advertisement or private invitation ;

“bet” shall mean to stake any money or valuable thing by or on behalf of any

person, or expressly or impliedly to undertake or promise or agree to stake any money or valuable thing by or on behalf of any person, on any event or contingency of or relating to any race, foot race, cycle race, or any shooting running or boxing contest, or prize fight, but the staking of money or any valuable thing which will be or form part of the prize to be gained by persons taking part in, or owning animals taking part in, any such race or contest, not being a prize fight, shall not be regarded, for the purposes of this Act, as betting ;

“totalisator” shall mean the instrument, machine, or contrivance commonly known as a “totalisator”, or any other instrument, machine, or contrivance of a like nature, or any scheme for enabling any number of persons to make bets with one another on principles of a like nature.

Whenever in this Act the expressions “foot race”, “cycle race”, or “shooting running or boxing contest” are used, those expressions shall only include races or contests,—

(a) the place whereof is a place, to which the public or the members of any club or association have access, or which the public or such members frequent, or to which the public or such members come by invitation ; and

(b) the date whereof has been fixed beforehand.

3. (1) The Attorney-General may, from time to time upon application in writing to him, grant a license to any person or association of persons to hold race meetings in accordance with this Act on any land in this Colony which is in the lawful occupation of that person or association ; provided that, if the land be proclaimed land, or ground held under mining title, within the meaning of Act No. 35 of 1908 or any amendment thereof, such a license shall only be granted if the applicant has obtained permission, in accordance with section *sixty-nine* of that Act, to use the land for the purposes of recreation ; provided further that, anything to the contrary notwithstanding in section *seventy* of that Act contained, land for which such permission has been obtained may, during the continuance of the permission, be fenced, with the consent in writing of the Minister of Mines.

Licensing of
racecourses
by the
Attorney-
General.

Act No. 37
of 1909.

(2) Every such license shall be valid for one year from the grant thereof unless withdrawn under this section, and it may be renewed, unless the holder is convicted of an offence under the next succeeding section committed on or in respect of the land for which the license is held.

(3) A license to hold race meetings on any land shall not be granted under this section until rules and regulations under which such race meetings will be carried on upon such land have been approved by the Governor-in-Council.

(4) Every such license may, at any time, be withdrawn if the holder is convicted of any such offence.

(5) Every such license shall, in the case of an association, be issued to the secretary or other like officer thereof and may be transferred at the request of the association to the successor in office of the licensee.

(6) Every such license shall be produced on the demand of any police officer above the rank of sergeant.

(7) The licensee of any racecourse shall be entitled to exclude therefrom any person in accordance with the rules and regulations relating to such racecourse approved as aforesaid.

Prohibition of racing in certain areas except on certain days and at certain places.

4. (1) Every person shall be guilty of an offence against this Act who—

(a) takes part in, or aids and abets any other persons in taking part in, a race or race meeting except upon a racecourse and upon a race day ;

(b) sells, or offers for sale, or circulates a race card except upon a racecourse and upon a race day, or sells or offers for sale a race-card notifying races to be run other than at the race meeting then and there being held.

(2) Whenever Christmas Day falls on a Saturday, or whenever a race meeting has been fixed for any particular race day and the weather or any unforeseen or unavoidable circumstances prevent or render undesirable the holding or continuation of that meeting on that day, the Commissioner of Police may, in his absolute discretion, give to the persons or association of persons who have organized that meeting permission in writing to hold the meeting or continuation of the meeting on a racecourse on another day and such a permission shall be a defence to any charge laid under sub-section (1) (a).

(3) For the purposes of this section the holding of any race meeting shall be deemed an aiding and abetting in the taking part in a race,

whether or not any race be run, and every person who in any way organizes or arranges the race meeting, shall be deemed to hold that meeting.

5. Every person shall be guilty of an offence against this Act who—

Prohibition of betting except upon racecourses, and of publication of betting odds except in certain circumstances.

(a) bets upon the result of any race, unless the bet be made upon a racecourse on a race day either at sites on that racecourse approved by the Commissioner of Police or by means of a totalisator licensed under section *six* and on, in either case, a race actually taking place on that racecourse on the day upon which the bet is made ;

(b) bets at any time or place upon the result of any foot race, cycle race, or of any shooting running or boxing contest or prize fight ;

(c) being over twenty-one years of age, bets at any time or place with any person under that age, knowing him to be under that age ;

(d) prints any newspaper in this Colony, or publishes in this Colony any newspaper printed therein, containing information of betting odds which relate to any race, foot race, cycle race, or any shooting running or boxing contest or prize fight run, or held, or carried on, in or outside this Colony, unless the result thereof has been determined ;

(e) sells, or offers for sale, or circulates, in this Colony any newspaper or other publication printed or published in South Africa, which has been declared by the Governor-in-Council to habitually contain information of betting odds relating to any such race, contest, or fight, run, or held, or carried on in this Colony or outside South Africa, unless the result thereof has been determined ;

(f) knowingly disseminates in this Colony in any manner, other than by means of a newspaper, information of betting odds relating to any such race, contest, or fight.

6. (1) The Attorney-General may, in his discretion and upon written application, issue to the holder of a license granted under section *three*, a further license to use a totalisator or totalisators on a race day upon any site on a racecourse approved by the Commissioner of Police. That further license may be revoked at any time if default be made in complying with any provision of this section or if the totalisator be used at any site not so approved.

Licensing of and tax upon totalisator on racecourses.

(2) There shall be payable to the Colonial Treasurer by the licensee—

(a) a duty calculated at the rate of two per

Act No. 37
of 1909.

cent. of the gross takings of each licensed totalisator; and

(b) a duty calculated at the rate of two per cent. of the net takings of each such totalisator which, after a dividend therefrom has been declared, are undistributed either because no fractional part of a shilling is declared as dividend, or because no tickets entitling the holders to a dividend were disposed of; and

(c) a duty calculated at the rate of two per cent. of all such dividends as are unpaid three months after they were declared.

For the purposes of this sub-section "net takings" shall mean the gross takings, less the amount deducted as totalisator commission and duty payable under paragraph (a), but such commission and duty shall not together exceed ten per cent. of the gross takings of any one totalisator.

(3) A statement in a form prescribed by the Colonial Treasurer showing all such particulars as are mentioned in sub-section (2) shall be made by the licensee and verified by his affidavit. That statement so verified shall be transmitted by the licensee to the Colonial Treasurer within twenty-one days after every race day on which a totalisator was used.

(4) The licensee shall enter or cause to be entered regularly in a book kept for the purpose all such particulars as aforesaid and permit the inspection of such book at all reasonable hours by any person authorized thereto in writing by the Colonial Treasurer.

(5) If a licensee make default in transmitting such statement, verified as aforesaid, within the time prescribed, he shall be liable to pay to the Colonial Treasurer treble the amount due to the Colonial Treasurer under this section, and such amount shall be recoverable by action in any competent court.

(6) If inspection of the book aforesaid be refused, the licensee and any person in charge of that book shall be guilty of an offence against this Act.

Settlement of
bets at
premises
specially set
apart.

7. The Attorney-General may authorize any person or association of persons lawfully holding a race meeting to keep open premises, approved by the Commissioner of Police, for five hours on each of the next two weekdays (public holidays not being reckoned) after that race meeting, and it shall be lawful to settle bets in those premises on those days and during those hours.

8. (1) Any police officer of or above the rank of sergeant may, upon production of his official certificate of appointment as such officer, enter upon any racecourse or in any premises mentioned in the last preceding section and, if he has reasonable grounds for suspecting that a contravention of this Act is taking place or has taken place, may, upon production of the certificate aforesaid, enter upon any premises whatever.

Powers of entry of police.

Act No. 37 of 1909.

(2) Any person who shall resist, hinder, or obstruct any such officer in the exercise of his powers under this section shall be guilty of an offence against this Act.

9. (1) Any person who is guilty of an offence against this Act shall be liable,—

Penalties.

(a) in the case of a first conviction, to a fine not exceeding seventy-five pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months; and

(b) in the case of a second or subsequent conviction, to a fine not exceeding one hundred and fifty pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months, and a court of resident magistrate shall have special jurisdiction to impose any such punishment.

(2) Every prosecution for an offence against this Act shall be instituted within one month after the offence is alleged to have been committed.

(3) Whenever in any such prosecution the knowledge or absence of knowledge of the accused is material to the issue, the burden of proving the absence of knowledge shall lie upon the accused.

10. Nothing in this Act contained shall be construed as rendering lawful any act in relation to betting or wagering which was unlawful prior to the date of the coming into operation of this Act, or as permitting the recovery of moneys in respect of betting or wagering contracts or of bets, which were irrecoverable prior to that date.

Saving of existing law as to betting and wagering.

11. This Act may be cited for all purposes as the Horse Racing and Betting Restriction Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.*

Title and date of operation of Act.

* See Proc. No. 64 (Adm.), 1909, putting the Act in force on 15th Oct., 1909 (*Gazette*, 13th Aug., 1909, p. 686).

**Act No. 38
of 1909.**

ACT NO. 38 OF 1909.]

[Came into operation 1st Oct., 1909.]

AN
ACT

To provide for the Prevention, Suppression, and Punishment of certain Offences and to Amend in certain respects the Law relating to the Detention of Convicted Persons, and to provide for the establishment of Industrial Schools for children.

(Assented to 7th July, 1909.)

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

PRELIMINARY.

Interpre-
tation of
terms.

1. In this Act, unless inconsistent with the context—

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

“imprisonment” shall mean imprisonment with or without hard labour as the court which passes sentence for an offence mentioned in this Act may determine ;

“place of public resort” shall mean any place of entertainment, amusement, or refreshment to which the public have access, whether by payment for access or otherwise ;

“public place” shall mean any place to which the public have access, but shall not include a “place of public resort” as herein described.

PART I.

OFFENCES.

Offences
against
public
decency
and honour.

2. Any person who shall—

(1) in or near any public place or place of public resort, make use of any insulting, indecent, obscene, blasphemous, or threatening language ;

(2) in or within sight of any public place, or in any place of public resort, indecently expose his person or make indecent signs or gestures ;

(3) in or from any public place or place of public resort, follow or address any female in an insulting manner ;

(4) write or transmit, or knowingly be party to the writing or transmission of any communication containing threats of bodily injury to any person, or indecent or obscene matter ;

(5) in the hearing or to the knowledge of any other person by speech or writing or other representation use insulting or defamatory language, descriptions, or gestures of or to or concerning any person ;

(6) manufacture, or sell, or expose for sale, or exhibit any obscene or indecent figure, cast, statue, or model ;

(7) sell, make, print, circulate, exhibit, or publish any indecent book, paper, pamphlet, photograph, card, picture, or other representation ;

(8) advertise or cause to be advertised, or publish or circulate any publication containing an advertisement of, any means, methods, medicines, drugs, or appliances calculated to prevent or intended for the prevention of conception or calculated to procure or intended for the procuring of abortion ;

(9) sell, buy, or use any so called love-philtre, or aphrodisiac or any such matter or thing intended to excite carnal desire ;

shall be liable on conviction to a fine not exceeding seventy-five pounds or, in default of payment, to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

3. Any person who shall—

(1) in any public place or place of public resort and after having been warned to refrain by a police officer or police constable, take part in, or permit, any dangerous performance or the doing of any dangerous act ;

(2) in any public place or place of public resort, induce or permit any child under the age of sixteen years to take part in any dangerous performance or dangerous act ;

(3) knowingly point at any person any firearm or air-gun, whether with intent to injure that person or not and whether the firearm or air-gun be loaded or not, unless allowed or required by law ;

shall be liable on conviction to the penalties mentioned in the last preceding section.

Offences in regard to dangerous performances and acts.

Act No. 38 Vagrancy and
of 1909. children's
 protection.

4. Any person who shall—

(1) give way to the use of intoxicants or drugs or to gambling or to idleness, in such manner that either he or those dependent upon him become destitute or obtain or have to seek relief from others ;

(2) beg, or neglect to restrain children under his care from begging or from vagrancy, truancy, theft, or contravention of the law regulating the sale of intoxicating liquor ;

shall be liable on conviction to the penalties mentioned in section *two*.

Offences by
 keepers of
 places of
 public resort.

5. Any person who, being the keeper or having the management of any place of public resort, shall —

(1) knowingly permit pimps or prostitutes to frequent such place ; or

(2) knowingly suffer prostitution, or procuration for the purpose of prostitution, to be carried on, in or about such place ; or

(3) knowingly suffer gaming or wagering to take place in or about such place ; or

(4) conduct such place otherwise than in an orderly and proper manner ;

shall be liable on conviction to the penalties mentioned in section *two* and upon such conviction the license (if any) held by him in respect of such place of public resort may, in the discretion of the court passing sentence, be forfeited on the first conviction ; and, in the case of a second conviction for any such offence, the license shall be forfeited and the holder thereof shall be disqualified for a period of two years from holding any such license ; and whenever two convictions under this section have taken place within a period of three years in respect of the same premises, whether the persons convicted were or were not the same, the court shall direct that for a period not exceeding two years from the date of the last of such convictions no license as aforesaid shall be issued or renewed to any person whatever in respect of those premises, and any license if issued or renewed in contravention of this section, shall be void

The holder of any such license charged with a contravention of this section shall produce that license for examination and, if the license be forfeited under this section, shall deliver it up to the authority which issued it, and if such person shall fail when required so to produce or deliver up the license he shall, in addition to any other penalty to which he may be liable under this section, be liable on conviction to a fine not

exceeding ten pounds or, in default of payment, to imprisonment for a period not exceeding one month.

6. Any person who, being an officer in the public service or railway service and as such becoming the recipient or possessor of secret or confidential information or knowledge, shall without authority or lawful cause divulge such information or knowledge, shall be liable on conviction to the penalties mentioned in section *two*.

Divulging secrets or confidential information or knowledge by public servants.

7. Any person who shall—

(a) print, publish, sell, or circulate any newspaper, book, pamphlet, or document containing detailed evidence of an immoral, obscene, indecent, or disgusting character given in any proceedings ;

Newspapers publishing evidence of indecent character.

(b) print, publish, sell, or circulate a newspaper, book, pamphlet, or document containing a report of evidence of any proceedings when in the interests of good order or public morals any members of the public have been excluded from the hearing of those proceedings ;

shall be liable on conviction to the penalties mentioned in section *two*.

8. Section *one hundred and eighty-seven* of the Criminal Procedure Code 1903 shall be and is hereby amended by the deletion therefrom of the words "whose verdict must be unanimous" and the substitution therefor of the words "of whom not less than seven shall determine the verdict", and for the purposes of any other provision of the said Code a jury shall be deemed to have agreed or to be able to agree as to its verdict if such number as aforesaid has agreed or is able to agree as to the verdict.

Majority of seven on jury may determine a verdict in criminal trials.

PART II.

MODES OF DEALING WITH CONVICTED PERSONS.

9. (1) Any person who, having been convicted on two or more separate occasions (either in this Colony or elsewhere, and whether before or after the coming into operation of this Act) of any such offence as is mentioned in the Schedule to this Act, shall, if he be thereafter convicted in this Colony of any of those offences, be liable to be declared by a judge presiding over any superior court before which he is then convicted an habitual criminal.

Indeterminate sentences for habitual criminals.

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of 1909.

(2) An habitual criminal shall be detained with hard labour in a convict prison during the Governor's pleasure, and shall not be released until the board of visitors mentioned in sub-section (6) shall have reported to the Governor that there is reasonable probability that the habitual criminal will in future abstain from crime and lead a useful and industrious life, or that he is no longer capable of engaging in crime or that for any other reason it is desirable to release him.

(3) Upon receiving the report of that board of visitors the Governor may order the release on probation of the habitual criminal for any period, and on any conditions as to supervision or otherwise, which the Governor may determine or may order the unconditional release of that criminal.

(4) A person so released on probation who shall fail to observe any condition of his release may be arrested and re-committed to prison by warrant under the hand of the Attorney-General and shall be detained in prison as if he had not been so released.

(5) If a person so released on probation complete the period thereof without breaking any condition of his release, he shall no longer be deemed an habitual criminal.

*(6) The Governor shall from time to time appoint a board of visitors for every convict prison, and the Director of Prisons shall furnish each board of visitors at least once in every year with a report in writing containing detailed particulars relative to the history, conduct, and industry of each habitual criminal detained in the convict prison and may, for the purpose of any such report as to conduct or industry, use any system of marking or registering the conduct or industry of the convicts detained therein.†

Reports on
long
sentence
prisoners.

10. The board of visitors shall further, at least once in every year, furnish to the Governor a report in writing containing detailed particulars relative to the history, conduct, and industry of every convict detained in the convict prison who, whether sentenced before or after the coming into operation of this Act, has completed a period of two years of his sentence. Upon receipt of that report the Governor may, if the same be favourable in regard to any such convict, release him upon probation or remit the remainder of his sentence. If the convict be released upon probation under this section the provisions of sub-section (4) of the last preceding section shall *mutatis mutandis* apply to him; provided that if

* For appointment of board of visitors see Govt. Notice No. 1097 of 1909 (*Gazette*, 24th Sept., 1909, p. 1193).

† For provisions for obtaining this information see amendments and additions to regulations governing management of convict prisons and gaols: Govt. Notices Nos. 1093 and 1094 of 1909 (*Gazette*, 24th Sept., 1909, pp. 1187-1188).

the convict be re-committed by the application of that sub-section the period of his detention thereafter shall not exceed the unexpired portion of his sentence excluding the period during which he was on probation.

11. (1) Notwithstanding anything to the contrary in sections *two hundred and sixty-two*, *two hundred and sixty-three* and *two hundred and sixty-four* of the Criminal Procedure Code, 1903, contained, any court before which a person may be convicted and sentenced for the first time for an offence against property or against the person (other than murder or rape or assault with intent to commit those offences or indecent assault), may suspend the operation of the sentence for such reasonable time as will allow such person to compensate the person to whom damage or injury has been caused by the offence.

Compensation by first offender for injury to complainant.

(2) That court shall proceed forthwith to determine the amount of the compensation, and, if the condition upon which the sentence was suspended be fulfilled, the offender shall be deemed to have received a free pardon for the offence.

(3) If that condition be not fulfilled the offender may be arrested without warrant and shall thereupon be committed by the court to prison to undergo the said sentence.

12. (1) Whenever a person is convicted of an offence, not punishable with death, before a superior court the judge presiding thereat may order the operation of the sentence to be suspended on conditions to be mentioned in the order. That person shall thereupon be released, but if he fail to observe any condition of his release he may be arrested and committed to prison by warrant under the hand of the Attorney-General, there to undergo the sentence passed upon him for the said offence.

Power of Court to suspend operation of sentence passed by it.

(2) The powers conferred by this section upon a judge may also be exercised by any court of resident magistrate.

* 13. (1) Notwithstanding anything to the contrary in Part VIII of the Prisons and Reformatories Ordinance, 1906 (No. 6 of 1906), the Governor shall appoint a board of visitors for every reformatory established under that Ordinance or any amendment thereof.

Board of visitors for reformatories established under Ord. No. 6 of 1906.

(2) Such board shall have the same powers, duties, and jurisdiction as are conferred and imposed on the board of visitors mentioned in sections *nine* and *ten*, and may further report to

* For appointment of board of visitors for Enmasdale Reformatory see Govt. Notice No. 1098 of 1909 (*Gazette*, 24th Sept., 1909, p. 1193).

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the Governor that any inmate of a reformatory is incorrigible and exercising an evil influence over the other inmates thereof.

(3) Upon consideration of any such last described report the Governor may commute the remainder of such inmate's sentence of detention in a reformatory to such period of imprisonment in a prison or gaol as the Governor may determine.

Detention of
juvenile
offenders
awaiting
trial.

14. (1) A white person who is apparently under the age of sixteen years and charged with any offence shall not, without the written authority of the Director of Prisons, be detained in any prison, gaol, or lock-up while awaiting trial.

(2) Save as in this section is otherwise provided, every such person shall be detained in some place generally or specially determined by the Director of Prisons in consultation with the Commissioner of Police :

Provided that any police officer may, unless—

(a) the charge made against such person be that of homicide or any other serious offence ; or

(b) in the opinion of such officer, it be necessary to remove such person from the association of persons of bad character ; or

(c) the ends of justice are likely to be defeated,

release from custody a person detained in accordance with sub-section (2), if his parent or guardian will enter into recognizances, with or without sureties, for his appearance when required to answer the charge made against him.

Committal to
reformatories
of male
children
under
eighteen
by courts of
resident
magistrate.

15. Anything to the contrary notwithstanding in Part VIII of the Prisons and Reformatories Ordinance 1906 (No. 6 of 1906) a court of resident magistrate may commit any male European child of any age under the age of eighteen years, convicted before that court to a reformatory to be detained therein for a period of not less than two years, but not after he has attained the age of twenty years, or he may be apprenticed to some useful calling or occupation and until he has attained the age of twenty years.

Detention in
industrial
schools.

* **16.** Any European child under the age of eighteen years who—

(a) is found wandering and not having any home or settled place of abode or visible means of subsistence, or is found wandering and having no parent or guardian or a parent or guardian who does not exercise proper guardianship ; or

* For regulations framed under this section see Govt. Notice No. 1095 of 1909, and for appointment of board of management for Government Industrial School, Standerton, see Govt. Notice No. 1096 of 1909 (*Gazette*, 24th Sept., 1909, p. 1189).

(b) is found destitute or having both parents or the surviving parent, or in the case of an illegitimate child, the mother undergoing imprisonment ; or

(c) is under the care of a parent or guardian or other person who, by reason of criminal or drunken habits, is unfit to have the care of the child ; or

(d) is the daughter, whether legitimate or illegitimate, of a father who has been convicted of a sexual offence against any of his daughters ; or

(e) frequents the company of any reputed criminal or of any known or reputed prostitute ; or

(f) cannot be controlled by the parents or refuses to attend or deserts from school ; or

(g) is lodging or residing in a house or room used by any prostitute or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction, corruption, or prostitution of the child ; or

(h) being also under the age of fourteen years, is found in any public place or place of public resort, begging, or singing or performing for money or any other remuneration, or is in any such place for any such purpose ; or

(i) falls within the provisions of sections *eleven* or *twelve* of the Criminal Law Amendment Act 1908 ; or

(j) being a girl, is convicted of any crime for which any sentence of imprisonment may be imposed,

may, at the instance of any person or of any society working for the reclamation of children, be ordered by a judge or by a resident magistrate sitting *in camera*, except where the order is a consequence of a trial held in public, to be sent to a Government industrial school under such regulations as shall be framed by the Governor from time to time ; and such regulations shall provide (*inter alia*) for the establishment of a board of management and for the appointment of an inspector under the control of the Attorney-General, and no child lawfully sent to such an industrial school shall leave the same except upon recommendation of the said board to the Attorney-General, or, in the case of a girl mentioned in paragraph (j) of this section, upon a recommendation of the said board to the Governor, and any child unlawfully deserting from the same shall be subject

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to such punishments as may be determined by the said regulations, but not exceeding those determined by law or regulation in force in regard to reformatories.

Where any child has under this section been ordered to be sent to an industrial school the Attorney-General may, if such course shall appear to be in the interests of such child, authorize the placing of such child in the custody of any person in charge of a charitable institution, and the detention of such child in such institution instead of in an industrial school for such period as he may think fit.

No child, other than a girl convicted of crime, shall be compulsorily detained in such a school or institution after reaching the age of eighteen.

The court by which any order is made under this section may apply the provisions of the Criminal Law Amendment Act 1908 (Act No. 16 of 1908), so far as the same are applicable, for the purpose of enforcing payment by the child's parent or guardian of the child's maintenance in such an industrial school or institution.

Title and
date of
operation
of Act.

17. This Act may be cited for all purposes as the Criminal Law Amendment Act 1909 and shall come into operation on a date to be fixed by proclamation of the Governor in the *Gazette*.*

Schedule.

- Rape.
- Robbery.
- Assault with intent to commit any of those offences or in which a dangerous wound is given or indecent assault.
- Arson.
- Forgery or uttering forged documents knowing the same to be forged.
- House breaking with intent to commit an offence.
- Fraud.
- Theft.
- Receiving stolen property well knowing the same to have been stolen.
- Offences described in parts A B or C of Ordinance No. 26 of 1904.
- Offences described in Ordinance No. 46 of 1903 or any amendment thereof.
- Offences described in Ordinance No. 63 of 1903.
- Offences described in Chapter XII of Act No. 35 of 1908 or any regulations made under that Chapter.

* See Proc. No. 65 (Admn.), 1909, putting the Act in force on 1st Oct., 1909 (*Gazette*, 13th Aug., 1909, p. 687).

ACT No. 39 OF 1909.] [Came into operation 21st July, 1909. **Act No. 39 of 1909.**

A

PRIVATE ACT

To provide for the Registration of Architects in The Transvaal.

(Assented to 7th July, 1909.)

WHEREAS it is expedient to provide for the registration of persons publicly practising, or entitled to practise publicly, as architects in The Transvaal, so as to distinguish qualified from unqualified persons;

And whereas it is necessary to provide a qualification for admission to the Register of Architects;

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

1. After the expiration of six months from the coming into operation of this Act no person shall describe or hold himself out as an architect or use any name, title, addition, or description, or letters indicating that he is an architect, whether by advertisement, by description in or at his place of business, or residence, by any document, or otherwise, unless he is registered as an architect in pursuance of this Act.

Use of title of architect restricted.

2. Any person contravening any of the provisions of section *one* hereof shall be liable to a fine not exceeding one hundred pounds for each offence and in default of payment to imprisonment for a period not exceeding six months.

Penalty for infringement.

3. Upon the coming into operation of this Act there shall come into existence a body corporate by the name of "The Association of Transvaal Architects" with perpetual succession and the right to use a common seal and to sue and be sued in its corporate capacity, and the said body corporate shall be capable in law of taking and holding any movable or immovable property for the benefit and purposes of the association with power to dispose thereof, but so that the association shall apply its funds and assets in promoting the objects of the

Association of Transvaal Architects.

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of 1909.

association and shall not at any time pay any dividend to its members. Every person registered as an architect as hereinafter provided shall upon such registration *ipso facto* become a member of the said association.

Appointment
of the
provisional
council.

4. Upon the coming into operation of this Act there shall come into existence a provisional council consisting of the following persons, namely :—

WALTER REID, F.R.I.B.A. ;
HERBERT BAKER, F.R.I.B.A. ;
G. A. H. DICKSON, F.R.I.B.A. ;
FRANK EMLEY, F.R.I.B.A. ;
ARCHER HOSKING, A.R.I.B.A. ;
W. H. STUCKE, A.R.I.B.A. ;
HARRY CLAYTON, M.S.A. ;
J. F. BEARDWOOD, M.S.A. ;
R. HOWDEN, A.R.V.I.A. ;
G. H. VEALE ;
F. G. MCINTOSH ;
W. J. DE ZWAAN ;
G. ST. J. COTTRILL ;

who shall be the first members of the Association of Transvaal Architects and shall forthwith cause their names to be entered upon the register thereof. The provisional council shall, subject to the provisions of this Act, exercise all the powers of the association until the council hereinafter mentioned shall come into office.

Should any of the said persons die or become incapacitated, or refuse to become or remain members of the said provisional council, the Governor-in-Council may appoint other qualified persons in their place.

Proceedings
of the
provisional
council.

5. Upon a day to be fixed by the President of the Transvaal Institute of Architects, but not later than one month from the coming into operation of this Act, the provisional council shall meet at Johannesburg and shall at such meeting elect a president. In the absence of the president at any meeting the members of the provisional council present shall elect one of their number to preside.

At any meeting of the provisional council five members personally present shall constitute a quorum, and a majority of the members present shall decide every question to be decided by such meeting, except admission to the register, on which

a majority of the whole council shall vote, and fourteen days' notice shall be given of all meetings at which the admission of members is to be dealt with.

Subject to the provisions of this Act the provisional council are hereby empowered to regulate their meetings and the proceedings thereat and the mode of carrying on the business of the association and shall remain in office until six months after the date of the coming into operation of this Act.

The provisional council shall have power to appoint a clerk or registrar and such other officers as they may deem necessary for the purpose of the association.

6. The provisional council shall forthwith open a register in which any person shall be entitled to be registered as an architect in pursuance of this Act who proves to the satisfaction of the provisional council within six months next after the coming into operation of this Act that at the date of the coming into operation of this Act he was resident in British South Africa, and

Persons entitled to be registered by the provisional council.

- (a) was a member of the Transvaal Institute of Architects or of any other institute or society of architects of equal standing; or
- (b) was publicly and *bona fide* practising as an architect in The Transvaal; or
- (c) was at such aforesaid time, or prior to the coming into operation of this Act, engaged as an assistant to an architect in The Transvaal and has had at least seven years' professional experience; or
- (d) that he is possessed of qualifications and experience which may be declared by the Governor-in-Council by proclamation to be equal to those in one or other of the foregoing instances.

7. Upon the expiration of six months from the date of the coming into operation of this Act no person shall be entitled to be registered in the said register as an architect unless he shall prove to the satisfaction of the majority of the whole council hereinafter mentioned that at the date of his application for registration he is resident in British South Africa and has attained the age of twenty-one years; and

Persons entitled to be registered by the council.

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of 1909.

(a) has passed the examination for associate-ship of the Royal Institute of British Architects or the examination for membership of the Society of Architects of London or the examination or examinations conducted by the council and prescribed by the bye-laws of the association or some other examination which may be declared by the Governor-in-Council by proclamation to be equivalent to one or any of these examinations, and has in addition had at least four years' professional and practical experience as an assistant to an architect; or

(b) that prior to, or at the time of, the coming into operation of this Act he was registered as an associate or fellow of the Royal Institute of British Architects or as a member of the Society of Architects of London or the Transvaal Institute of Architects or of some other society or institute of architects which the Governor-in-Council may by proclamation declare to be of a standing equal to that of one of the said institutions.

Applicant refused by council may apply to Supreme Court.

8. Where the council has refused to register the name of a person applying to be registered under sections *six* and *seven*, such person may apply on notice of motion to the Supreme Court for a review of the decision of the council, and the said Court may thereupon make such order as it may deem fit.

Register.

9. The provisional council or the council, as the case may be, shall, within a week after the registration of any person under this Act, transmit to the Colonial Secretary a duplicate of the said entry and the Colonial Secretary shall cause a duplicate of the aforesaid register to be kept in his office. Every change affecting the register shall be noted therein and notified to the Colonial Secretary.

Registration fees.

10. No person shall be placed upon the register until he has paid such registration fee, not exceeding five guineas, as shall be fixed by the provisional council or the council, as the case may be.

Resignation by members.

11. It shall be lawful for any person whose name has been placed on the said register and whose professional conduct is not then the subject of investigation at any time to resign by

writing under his hand addressed and delivered to the council and thereupon his name shall be removed from the said register and he shall cease to be registered as an architect and to be a member of the association.

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12. Every member of the association shall pay an annual subscription at such time and of such amount as shall be fixed by the bye-laws framed as hereinafter provided; provided however that members who have ceased to practise shall be entitled to remain on the register without being liable to pay such subscription but shall not be entitled to be officers of the association or to be present or vote at any of the proceedings of the association or to be reckoned in any quorum unless they shall have paid such subscription.

Annual
subscription.

13. All sums of money due by members to the association for registration fees or subscriptions may be recovered in the court of any resident magistrate within whose jurisdiction the debtor may reside. An affidavit by the secretary setting forth the necessary facts shall, in cases by default, be *prima facie* evidence upon which the court may grant an order or pronounce judgment by default in such suit and such judgment shall be enforceable in ordinary course of law.

Recovery of
subscription.

14. On such day during the currency of the sixth month next after the date of the coming into operation of this Act as the provisional council shall appoint they shall convene a meeting in Johannesburg of all persons whose names appear upon the register at the date on which the notices convening such meeting are issued, such notices to be posted to the registered address of such persons at least fourteen days before the date fixed for the said meeting, and at such meeting the persons present or represented by proxy in writing shall proceed to elect in manner to be provided by the provisional council a council of twelve members who shall come into office upon the expiration of six months from the date of the coming into operation of this Act and thereupon the provisional council shall cease to exist. The council shall hold office until the date of the first or next annual general meeting as the case may be when they shall retire from office.

Election of
the council.

15. The following acts and practices, whether of commission or omission, upon the part of any architect shall be offences under the provisions of

Offences.

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of 1909.

this Act and, if found guilty by the Supreme Court of having committed or engaged in any one or more of such acts or practices, such architect shall be liable to be suspended from practice for any period that may be decided on by the said Court or to have his name removed from the register as hereinafter provided; that is to say:—

(a) allowing any person except a registered architect in partnership with himself to practise in his name as an architect;

(b) directly or indirectly sharing his professional remuneration with any person, not being a registered architect in partnership with him, or directly or indirectly accepting any share of the professional remuneration of such person or any commission or bonus thereon;

(c) signing accounts, statements, reports, specifications, plans, or other documents purporting to represent any architectural work performed by himself which work shall not have been performed under his personal supervision or direction;

(d) directly or indirectly paying a person a commission for bringing him work, giving any person monetary or other consideration as a remuneration for bringing him work, or for inducing other persons to give him work;

(e) touting or otherwise improperly obtaining or attempting to obtain work;

(f) performing any architectural work in connection with any matter which is the subject of dispute or litigation upon condition that only in the event of the said dispute or litigation ending favourably for the party for whom the work is performed shall payment be made for such work;

(g) conducting himself unprofessionally or dishonourably in connection with any work performed by him as an architect;

(h) wilfully disobeying refusing or neglecting to carry out and perform any bye-law or order lawfully adopted and established by the association regarding any point of professional practice;

(i) engaging in any practices or performing any acts similar to those acts and practices prohibited in the foregoing sections.

16. If the conduct or behaviour of a member of the association shall appear to the provisional council or the council to require investigation, they shall, before proceeding against such member in the Supreme Court as provided in the next succeeding section, hold an enquiry and, if required by such member, hear evidence on the matter. Eight days' written notice of the charges against him and of the date of such enquiry shall be given to the member concerned, who shall be entitled to appear at such enquiry to answer such charges and to produce evidence on his behalf, and his own evidence (if any) shall be admissible against him in any other proceedings, civil or criminal. If such member requires evidence to be heard the provisional council or council may also hear evidence against such member. Where evidence is to be heard the president or vice-president may administer the oath to witnesses and such witnesses shall be subject to the law relating to perjury.

Enquiries
into conduct
of members.

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of 1909.**

17. In the event of any member of the association, being in the opinion of the provisional council or council guilty of any act or omission prohibited by this Act, or offending against any bye-law or regulation framed thereunder, the provisional council or the council may call upon such member to show cause to the Supreme Court of this Colony why he should not be prohibited from practising as an architect, and why his name should not be removed from the register. All such proceedings shall be taken in the name of the association. Upon the hearing of any such matter the court may suspend such member from practice, remove his name from the register or make such other order as may seem fit and may further make such order as to costs as may seem fit. In case of such suspension or removal, copies of the order of Court shall be lodged with the Colonial Secretary and the association and noted in the register.

Proceedings
for suspension
and removal
of members.

18. In case any member of the association shall in consequence of an order of Court be suspended from practising as an architect in this Colony, such person shall, during such time as he is suspended, cease to be a member of the association, but shall nevertheless be liable to pay all moneys due by him up to the date of such suspension.

Penalties.

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of 1909.**

Persons having no claim against the assets of the association.

Titles allowed to members of the association.

Rules and regulations for examinations.

Powers of the council.

Persons in arrear with subscription not qualified to vote.

General meetings.

19. No claim against the assets of the association shall exist in the case of, or be made by, any person whose name has ceased to appear upon the register of the association.

20. Every person whose name appears on the register shall be entitled to style himself "Registered Architect, Transvaal".

21. The council shall, upon being elected to office, forthwith frame rules and regulations for regulating the examinations or equivalents thereto which shall be required of applicants for registration under section *seven* of this Act.

22. The council shall have power to do each and all of the following acts :—

(a) to manage and superintend the affairs of the association ;

(b) to appoint and remove any servants of the association and to determine the duty, salary, and remuneration of the same ;

(c) to accept or refuse for good cause any application for registration made in pursuance of this Act ;

(d) to hold examinations for applicants for registration and to grant certificates to such persons as have satisfied the examiners in such examinations :

(e) generally to exercise all the powers of the association, except such powers as are expressly reserved by this Act to the association in general meeting.

23. No person who is in arrear with his subscription shall be qualified to be present or vote or be reckoned in a quorum at any meeting of the provisional council, or council, or of members, while he is so in arrear.

24. There shall be held once in each year a general meeting of the association whereat every architect upon the register who is not disqualified under section *twelve* hereof shall be entitled to vote personally or by proxy in writing. The quorum for such general meeting shall be fixed by the bye-laws.

Any question to be decided at such meeting shall be decided by a majority of the members present or represented thereat.

The council shall prepare as at the thirty-first of December in each year a balance-sheet of the affairs of the association and an account of all moneys received and expended by the association and submit such account duly audited to the association at such general meeting for discussion and approval. The officers of the association who shall consist of the members of the council and of a president and two vice-presidents (who shall, however, be members of the council) shall be elected annually at such meeting, and the said officers shall retire annually but shall be eligible for re-election.

It shall be lawful for any member or members of the association at such meeting to move any resolution which is not inconsistent with the purposes and provisions of this Act.

25. The person presiding over the provisional council or council or at any general meeting shall have a deliberative as well as a casting vote. Chairman's
vote.

26. The provisional council shall forthwith prepare draft bye-laws for the association for the purposes enumerated in the next succeeding section and shall convene a special general meeting of the association in Johannesburg to be held not later than six months from the date of the coming into operation of this Act for the purpose of considering and, if approved, of adopting the said bye-laws. The notice convening such meeting shall be sent to the registered address of each member of the association not later than fourteen days before the day appointed for such meeting and shall be accompanied by a copy of the said bye-laws. Meeting to
pass bye-laws.

A majority of the members personally present or represented by proxy in writing at such meeting shall be sufficient to determine all matters to be decided thereat and the non-receipt of the said notice or copy of the proposed bye-laws by any member or members shall not invalidate the proceedings at the said meeting, provided that one-third of the number of members then on the register shall be present personally or be represented by proxy in writing.

27. The council may from time to time, subject to the approval of the association assembled in a special general meeting called for the purpose, Purposes for
which bye-
laws may be
made.

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make bye-laws for any of the following purposes, provided that such bye-laws be not inconsistent with the provisions of this Act, and may alter, amend, or repeal such bye-laws including the bye-laws framed under the last preceding section, that is to say :—

- (a) for fixing the amount of the annual subscription payable by members and the time of payment of the same ;
- (b) for defining what shall be considered unprofessional or dishonourable conduct on the part of an architect ;
- (c) for regulating the time, mode, and place of summoning and holding ordinary and special general meetings and the quorum to be present thereat and the mode of voting and the conduct of proceedings at any such meetings and the regulations for the adjournment thereof ;
- (d) for regulating the meetings of the council and the quorum to be present thereat ;
- (e) for regulating the mode of nomination of members for election to the council and the mode of filling casual vacancies thereon ;
- (f) for regulating the times and places for holding examinations of applicants for registration and the subjects and the manner of conducting or holding any such examinations, and for fixing a reasonable fee to be paid by applicants and the conditions on which the examiners shall hold office and their remuneration ;
- (g) for regulating the mode of election of the officers of the association ;
- (h) for fixing a tariff prescribing the remuneration which architects shall be entitled to charge for their services ;
- (i) for determining the qualification and disqualification of councillors ;
- (j) and generally such bye-laws as from time to time seem to the association requisite for giving effect to the provisions of this Act and for the furtherance of the objects of the association.

Alteration of
bye-laws.

28. No alteration in the bye-laws as adopted at the special general meeting referred to in section *twenty-six* shall be made save by a majority of two-thirds of the members personally present or

represented by proxy in writing at the special general meeting convened for the purpose of sanctioning such alteration. Notice of such meeting, and of the alteration or alterations to be proposed thereat, shall be sent by post to the registered address of each member of the association at least fourteen days before the date fixed for the meeting but the non-receipt of such notice by any member or members shall not invalidate the proceedings thereat provided that one-third of the members then on the register shall be personally present or be represented by proxy in writing.

29. No bye-law framed and adopted under sections *twenty-six* and *twenty-seven* of this Act and no alteration amendment or repeal of any such bye-law shall have any force and effect until the same shall have been approved of by the Governor-in-Council and published in the *Gazette* whereupon they shall have the force of law and shall be binding upon all members of the association in so far as the same are not in conflict with the provisions of this Act.

Bye-laws—
when to take
effect.

30. The Governor-in-Council shall at all times have the power to repeal the existing bye-laws of the association and may from time to time alter amend and add to such bye-laws, provided that such alteration amendment and addition be not in conflict with the provisions of this Act.

Repeal of
bye-laws by
Governor-in-
Council.

31. The council may allocate such sum or sums of money as shall be proved to their satisfaction to have been expended in promoting this Act, and which sum or sums are, in the opinion of the council, reasonable, and may order the same to be paid through their treasurer to the body or bodies, person or persons, who may establish the claim or claims within twelve months of the coming into operation of this Act.

Costs of
promoting
this Act.

32. This Act may be cited for all purposes as the Architects Private Act 1909 and shall come into operation and have the force of law on the publication thereof in the *Gazette*.*

Title and
date of
operation of
Act.

* The Act was published in a *Gazette Extraordinary* on the 21st July, 1909.

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